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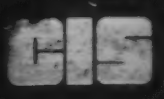

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HEARING

BEFORE THE

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

COPENHAGEN CSCE MEETING ON THE HUMAN DIMENSION

JULY 18, 1990

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COPENHAGEN CSCE MEETING ON THE HUMAN DIMENSION

WEDNESDAY, JULY 18, 1990

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
Washington, DC

The Commission met, pursuant to notice, in Room 562, Dirksen Senate Office Building, at 2 p.m., Senator Dennis DeConcini, Chairman, and Representative Steny H. Hoyer, Co-Chairman, presiding.

In attendance: Commissioners, Senators Frank Lautenberg, Alfonse D'Amato; Representative Frank R. Wolf and from the State Department Richard Schifter.

Also in attendance: Mary Sue Hafner, staff director and general counsel; Jane S. Fisher, deputy staff director; Erika Schlager, Judy Ingram, Mike Amitay, staff assistants.

OPENING STATEMENT OF SENATOR LAUTENBERG

Senator LAUTENBERG. The hearing on the Copenhagen Commission on Security and Cooperation in Europe meeting is called to order.

We've had some unfortunate delays. The Chairman for this hearing, Senator DeConcini, is delayed as a result of another mark-up that he has. And I understand that Congressman Hoyer is on the way, but I'm taking the liberty of being next in rank and getting the hearing started.

I would like to introduce a statement for the record by Senator DeConcini, Chairman of the Helsinki Commission hearing, and just to note that he, of course, welcomes our distinguished witness, Ambassador Max Kampelman, to the hearing. We're anxious to hear from him and without objection I will submit Senator DeConcini's statement for the record and just go on with the comments that he would have made had he been here.

That is to—and again, I want to make sure the attribution is straight. This is Senator DeConcini's welcome. I have a personal welcome to Ambassador Kampelman because we are old friends and have worked on many things before our government days together. I always enjoyed them and always found Max Kampelman to be forthright, intelligent and very helpful on matters affecting the wellbeing of our nation and people who inhabit this earth and Max Kampelman's commitment to human rights. The concerns that we have for one another is unmatched and I'm pleased to welcome him here to this hearing.

Ambassador Max Kampelman is the head of the U.S. delegation and he provided the kind of expertise and leadership that we so

critically needed at this historic juncture in the CSCE process. Ambassador Kampelman's long career as a lawyer and as a public servant is a testament to the high standards of integrity, courage and knowledge with which he has served our country to so well and so unselfishly.

We'll hear from Mr. Kampelman first and would invite you now, after hearing from my friend and colleague Senator D'Amato, for any opening remarks he may want to make and after that I have my own, Senator Lautenberg statement that I'll make and we'll go on with the hearing.

Senator D'Amato?

STATEMENT OF SENATOR ALFONSE D'AMATO FROM NEW YORK

Senator D'AMATO. Thank you, Mr. Chairman.

In the interest of time, I'm going to ask that my remarks be included in the record as read in their entirety. I want to welcome our good friend, our distinguished ambassador, Ambassador Kampelman, who has been so gracious and energetic and giving of his time and his service in the cause that many, including this senator, had doubts about whether we were ever going to be making headway. Not only have we made headway, but we find ourselves out there well ahead of those who are now looking with astonishment to see exactly what the CSCE process has done. I think it has been as a result of Ambassador Kampelman and a cadre of loyal, hard-working supporters who never lost faith, as well as those who were trapped and who sought freedom.

So, Ambassador, thank you for your work. Thank you for being here with us. I look forward to your comments because these are dramatically changing times and yet I think we have to always keep our eye on the attainment of that freedom, that goal, and the preservation of it.

So, we have great hope now, hope manifested in activities that we could never have dreamed of a short time ago. But now was not the time to drop our work or to be less vigilant. I think sometimes we tend to be less concerned and less vigilant because we take the attitude that all is well.

There is a big propaganda machine out there that is well oiled and well used. I've seen it as it relates to the Baltic nations. The Soviets would have us think that things are hunky-dory and people are happy. Indeed, the media carries accounts of things that have not taken place, but the Soviets have fed this disinformation to them. So, now is the time to continue that vigilance.

But I just want to pay public tribute to you on behalf, I know, of my colleagues who had the opportunity to work with you and on behalf of so many others who have come to know you and respect your great work.

Senator LAUTENBERG. Thank you very much, Senator D'Amato. I too want to add some personal comments about the exciting times in which we find ourselves and I would like to believe that this just wasn't happenstance, that in fact it was the effort and the pressure brought on by this group and allied groups across the world that produced the kind of change that we're witnessing today.

Few of us would have believed not too many years ago that the process of emigration, the process of human rights, the process of communications within the Soviet Union and the Bloc countries would have changed as it has. In fact, so many of the borders had evaporated. I'm not talking about boundaries. I'm talking about borders of behavior have evaporated, that it astonishes us. We, at times, don't know quite what to make of it. We're still apprehensive about the ability to follow through. We see the turmoil within the government there and hope that they'll be able to deal with them because if they don't it presents all of us on this side with some problems as we try to develop this particular relationship with the Soviets. But we're going beyond that. We're talking about human rights as it covers the scope of nations that have agreed.

I'm going to take a minute more and read Senator DeConcini's statement. It's too good not to be heard. So, I'll read it on his behalf.

The Copenhagen meeting came at an historic moment in the CSCE process and its results mirror the democratic revolution we're witnessing in the Soviet Union and Eastern Europe.

A year ago in Paris, at the first of this series of three human dimension meetings, the CSCE process was still struggling to obtain commitments which would strengthen the progress made at the Vienna Review Conference. The United States' proposal on free elections, for example, was considered too far ahead of its time to be considered seriously in Paris.

The dramatic "Fall of 1989" changed the course of history, however. With the collapse of communism in the Warsaw Pact countries has come the process of dissolving the barriers which have kept the CSCE states from achieving consensus on a common philosophy of government based on democratic principles.

Copenhagen achieved in four short weeks what we have been pressing for in the Helsinki process for the past 15 years, acknowledgment that governments derive their authority and legitimacy from the will of the people, freely and fairly expressed through periodic and genuine elections. In addition, the 35 CSCE states in Copenhagen agreed that the establishment of rule of law states are essential to the protection of fundamental freedoms and human rights.

The meeting was less successful in obtaining clear language on minority rights. However, the fact that this issue was squarely confronted in Copenhagen was an important contribution in itself. Copenhagen confirmed what many of us have been suggesting, the CSCE process can and must become an avenue in which to search for constructive approaches to the just treatment of minorities.

The Copenhagen meeting also revealed a growing dynamic in the CSCE in which the traditional bloc-to-bloc approach is being replaced with independent voices of the countries of Eastern Europe. While the homogeneous profile of the East has dissolved, the European Community is asserting itself as a voice of 12 nations which must be dealt with.

With that, I notice that the Chairman is here. He heard me read his statement. I'm sure not as eloquently as he would have read it, but I tried my best and I hope that the Chairman is satisfied and that I won't be demoted in the process. I'm sure that Senator DeConcini—and we'll swap seats without further adieu.

I have not acknowledged the fact that another very close friend, someone we've worked with regularly, Ambassador Schifter, is here as well. We expect that we'll be hearing from him soon.

Max, I would have given you the chance to start, but now——

Chairman DECONCINI. Senator Lautenberg, thank you very much. I apologize for being late, but when the Water and Energy Subcommittee is meeting and you have the Central Arizona Project in it, it's——

Senator LAUTENBERG. There's a New Jersey Project, Mr. Chairman. I just want to remind you of that as well.

Chairman DECONCINI. And you got it. Thank you.

I'll yield to—do you have any opening statements?

Senator D'AMATO. I had my opening statement, Mr. Chairman.

Chairman DECONCINI. Has everybody done their opening statements?

Senator LAUTENBERG. Yes.

Chairman DECONCINI. And have you testified?

Senator LAUTENBERG. If he did, he did it so well that we didn't even hear it.

Chairman DECONCINI. Ambassador Kampelman, we're delighted to have you here and my compliments from what I've heard was the conduct of our delegation and your strong, strong leadership at Copenhagen. Your long career certainly has demonstrated your not only understanding of this process, but truly someone that can't be argued with. I'm so happy to be here to hear you. I was afraid I might be late. So, if you'd please proceed.

STATEMENT OF HON. MAX KAMPELMAN, HEAD OF THE U.S. DELEGATION TO THE COPENHAGEN CSCE CONFERENCE ON THE HUMAN DIMENSION

Ambassador KAMPELMAN. Thank you very much, Mr. Chairman. I also want to express my appreciation to Senators Lautenberg and D'Amato for their comments.

It's clear to me as I've listened to these brief comments that the members of the Commission have been fully briefed on what happened in Copenhagen during the month of June. I have a more detailed statement and I think it's best if I simply submit that statement for the record rather than talk from it to people whose experience and knowledge about the subject of human rights and about the CSCE are so well known that they don't need to be receiving a lecture on it from me.

It might be useful, however, if I just introduced some generalizations about this meeting and where we're at that are not found in my prepared text. Maybe they can be helpful. If they lead to questions on your part, I'd be very happy to respond to those questions.

We are indeed living in a world in which increasingly the Helsinki process keeps appearing in our press and in learned journals. As I look upon it, it's a very interesting development. It's an interesting development because there's a lot of discussion taking place about where will the Helsinki process will go. What is its direction? I think it's important for us to have a certain basic understanding about that and I will express my own views about it as well.

At the outset however, and as a good way to introduce this, I want to express my appreciation to you, Mr. Chairman, and to the members of the Commission for the extraordinarily capable staff that you lent us for Copenhagen. We could certainly not have functioned as well without the staff, its experience, and the memory it has inherited and developed in working on a day to day basis with this very important, growingly important process.

So, it tells us something. What it tells me is that we are living in a period where, for a democracy, foreign policy cannot be arrived

at with a 51 to 49 percent vote. We were alerted to this in the last century by Alexis de Tocqueville, whose book, *Democracy in America,* while pointing out the strengths of democracy, also pointed to what he considered to be the basic weakness of democracy. The basic weakness of democracy to him was international policy. Why? Because, he said, in international policy democracy means partisanship, means criticism, means the free press, means difficulty of maintaining secrecy. It means the very things that we look upon as the strength of our system, but it also means potential for difficulty in executing foreign policy.

It was interesting that de Tocqueville, in talking about that, used Russia the illustration for authoritarianism. Way back in the last century it was Russia versus the United States, a democracy versus an authoritarian country. He talked about that basic weakness.

It seems to me that we in this country have come to recognize this problem. Whether we have theorized upon it is not important. But we have attempted to make reconciliations and adjustments with respect to this policy. The bipartisanship developed at the end of the Second World War by President Truman with the involvement of Senator Vandenberg was all an effort to say, "We cannot run foreign policy on a bitterly divided basis in this country. We've got to develop a consensus in this country."

A consensus in this country means, it seems to me, one between the Executive and the Legislative. That is because our party system is so different from party systems in other countries. The out party here, for example, doesn't really have the same kind of an institutional structure as, let's say, the out party in the United Kingdom. So, if you really want to look for a structure of the out party, you have to look at the Congress. Similarly speaking, I would say, the bipartisanship that's called for is a relationship between the Executive and the Legislative branch. This is where your Commission, it seems to me, has played such an important role. Because your Commission has assumed for itself over the years the responsibility of watching over this piece of legislation, of providing a staff which would monitor it, of assuming a close-working relationship. I notice Ambassador Schifter is here from the State Department. This is positive evidence of the close working relationship of the Executive and the Legislative.

What this has done is say to the world that on the issue of human rights, on the issue of human dignity as a minimum, the American people and their government speak with one voice. And there is strength in that. I think really that the Commission deserves a great deal of credit for that.

So, I want to use this occasion also to express my appreciation to the Co- Chairman, Congressman Hoyer, who came to Copenhagen during the time of our meeting with a delegation from this Commission. It was clear to me that whereas I remember having members of the Commission appear in Madrid when I had my previous experience with CSCE, we were a little bit out of the ordinary there. Other delegations, really, were primarily diplomatic representatives. Interestingly enough, in Copenhagen, a number of the delegations had members of their parliaments come by as visitors. I think they're emulating what we have done and the pattern that we have developed here which has been a very good pattern.

I, of course, believe that this close Executive/Legislative relationship has to extend itself into areas beyond human rights as well if it's going to be effective and if America is going to speak with the strength that our values deserve.

I remember when I was asked by President Carter to assume the responsibility for heading our delegation first as Co-Chairman and then as Chairman when President Reagan came in. I remember being approached by two leading diplomats of our country. It so happened one was a Democrat and one was a Republican. I would rather not mention their names here.

Both individually came to me and asked me what I was doing going to Madrid. I had a reputation, and probably a deserved reputation, of being a very hard, tough hard liner where the Soviets were concerned. They shared that view and wondered what I was doing with my views going to Madrid. Their argument was the Soviets are not living up to the Helsinki Final Act. Why dignify their presence? My argument in return was that this document is a Western document. It gives us an opportunity to talk, to criticize, to reveal to the world those violations where they take place.

We had a standard toward which nations agreed to aspire, but we also had a standard by which we had every right to judge them. Indeed, Madrid turned out to be a forum where we did indeed judge their behavior.

I recall one incident, if I might say, where early on in the meeting the head of the Soviet delegation—who was then 76 years of age, a Deputy Foreign Minister, a man who had been the editor of Pravda and Isvestia, a powerful man who bragged of his close relationship to Brezhnev—stood up after one of the exercises of criticism in which I frequently engaged in Madrid. He stood up and he said that I was ignoring that provision of the Helsinki Final Act which said there will be no interference in the internal affairs of any of the signatory states. This was, of course, what they looked to when they signed the agreement in 1975. This was their way out.

After he spoke, I stood up, asked for the floor again. On a previous day he had talked about the need for disarmament. I stood up and said, "Let's assume that we accepted the recommendation of the Soviet delegate and engaged in disarmament talks." I want to point out to you that the atmosphere of that day. It was soon after Afghanistan when we were not talking to the Soviets about anything except within the Madrid context.

I said, let's assume we have a negotiation and we come up with an agreement on arms reductions and by the terms of that agreement we were both to reduce, by a certain date, a certain amount. That certain date comes and they don't reduce. Now we stand up and we say, "You haven't reduced. You have not lived up to your obligation in the arms reduction field." Response from the Soviets? "You're interfering in our internal affairs." Correct. Nothing is more internal, nothing goes to the nature of sovereignty more than one's military forces, more than the issue of national security. Indeed, by saying they didn't reduce, we're interfering in their internal affairs.

I said to this group at Madrid, "If this is to be the Soviet position, then we can never enter into any agreement with the Soviets

because the agreement by definition becomes a meaningless agreement, including an arms agreement with the Soviets."

What we must understand is that when Brezhnev signed that piece of paper in 1975, what he said was, "My sovereignty is less by this portion." When we in the United States under President Ford signed that agreement, we said, "Our sovereignty is less by that portion to which we agreed in an international agreement."

It was interesting to me that about two or three weeks later the Soviets began to criticize American human rights behavior, which of course I enthusiastically welcomed saying, "We've now agreed this is a proper agenda item for international relations and for these meetings."

Then, while wearing my previous hat as counselor to the Department of State just a couple of years ago, I remember a meeting in Washington with Mr. Shevardnadze, the Soviet Foreign Minister. There were some preliminaries in George Shultz' office, chit-chat before we opened up the meeting and then Shultz looked at his watch and he said, "Well, I guess it's time for us to start." In conversational style, he turned to Shevardnadze and said, "What should we start with?" The Soviet Foreign Minister says, "Well, we have a pattern. The first item on our agenda is human rights, isn't it?"

Again, I want to say that is a tribute to the Helsinki Final Act. It's a tribute to what the Commission has accomplished and to what we've all accomplished. I think that what we have done is we have taken a set of moral standards. You don't have any right under the Helsinki Final Act to force anybody to live up to them. Every vote is done by unanimous consent and if it's by unanimous consent, clearly anybody can veto it. So, all you can really do is have moral suasion and speak with conscience. Conscience is powerful.

I recall that Solidarity got underway just as we were getting started in Madrid. They published their demands and among their first 16 demands was a provision that the text of the Helsinki Final Act be widely republished in the Polish press. That's an indication really of the power of conscience, the power of value, the power of ideas. That is exactly what I think the Helsinki Final Act represents.

We've gone very far in the humanitarian area. What we did as we came up to Copenhagen is say, we've not only gone very far with words, we've also gotten a great deal of observance of those words. And as you know both in Madrid and particularly in the Vienna Concluding Document went very far in words. Not to our complete satisfaction. I know that Ambassador Schifter spends hours each week trying to get more and more obedience to those words. But what we decided before Copenhagen, as a country and with our allies, was to open up a new dimension and say, "If there's going to be a humanitarian dimension that's assured, we have got to insist that it be accompanied by a system which functions under the rule of law, that it functions under political pluralism and under political parties with political competition."

We came with our allies to Copenhagen with that objective in mind and I think it's very clear to all of you by now in looking at the concluding document that we have achieved a set of principles

which are as important in my view as the Helsinki Final Act itself because what it has now done, and 35 nations have now said they'll abide by it—we're going to have trouble with their obeying it, but we have to pursue it—35 countries have now said that to carry out the humanitarian provisions of the Helsinki Final Act they must be governed by rule of law and they must be governed by political pluralism. They must be governed by political parties. I think we have made very great strides in helping this new Europe to evolve constructively and without violence as a result of the Copenhagen meeting.

I'll conclude, Mr. Chairman, by just looking ahead a moment in connection with the Helsinki process and saying this: We're going to have a third meeting on this issue in Moscow in September of next year. We have to begin thinking about that now. It occurs to me that a number of us have talked about this and I would urge that we begin preparing for two important subjects to be dealt with then and earlier if we can. One is the subject of minorities, ethnic minorities, cultural, and nationalist minorities.

If there's one thing that struck me in Copenhagen it is this. There were times in the course of the discussion when I thought the Balkan wars were about to break out. While the intensity of feeling now that East/West tensions have diminished, the intensity of national and ethnic and cultural differences is very great. I hope CSCE can find a role for itself in helping Europe to escape from this harbinger of pre-World War I days.

What's really happened is that while the Western European world in the period since World War II had an opportunity for political maturity, Eastern Europe did not have that opportunity and is therefore still in the yesterdays with respect to these vital problems, any one of which can erupt into violence and involve us if we're not careful about it.

CSCE must address the question of whether it has a role, maybe a mediating role or a conciliating role, in dealing with these subjects. I would hope that the Commission can help provide some kind of learning and background with respect to that issue.

I would say that another issue that the Helsinki process should begin addressing is the issue of terrorism. With the evolving democracies of Eastern Europe a great deal of support for international terrorism that came from the old Czechoslovakia and the old East Germany, for example is disappearing. We might have an opportunity, if we can work closely with the Soviets, to address this important issue of terrorism. Terrorism is a cancer, I believe, eating away at civilized society.

So there is plenty yet to be done for the CSCE process I think that with your leadership, and the leadership of the State Department and others who are concerned with this humanitarian dimension, we can do so.

Thank you very much for your attention, Mr. Chairman.

Chairman DeConcini. Ambassador, thank you.

I'm going to yield to the Co-Chairman. He has to leave for a vote on the Senate floor.

Congressman Hoyer?

Co-Chairman Hoyer. Well, I'll probably go over to the House floor. However, I tried to vote on the Senate floor a number of

times but they haven't accorded full Helsinki rights to House Members yet.

Chairman DECONCINI. I don't know. There was a lot of them on the floor yesterday. There was a cloture vote on the Civil Rights Act.

Co-Chairman HOYER. Mr. Ambassador, I apologize. We have had a number of series of votes now on the Agriculture bill and we have one right now and I want to get back to it. Then I'll try to get right back here.

I want to, however, say how proud all of us are, I think, on the Helsinki Commission, in the Congress and in the United States with the role that you have played both in Madrid and in Copenhagen. Obviously, the environments were radically different, I think it fair to say. Notwithstanding that, in both environments you provided our delegation with leadership of sufficient stature to equal the task. I think the document, as you point out, that came out of Copenhagen is a document of which all of us are very proud and would have been shocked to contemplate even 12 months ago.

It articulates, I think, the very essence of what we hoped the Helsinki process would result in. In fact, although there's much to go in realizing the objectives, as there will continue to be in the future, the objectives now are as clearly and unequivocally stated as I think they could be. Your efforts certainly were vital in that accomplishment.

I know when I was in Paris and proposed on behalf of the United States the free elections, none of us could really contemplate that such elections would occur between Paris and Copenhagen, nor could we contemplate that there would be a final document that would adopt that premise.

If I had more time, I would perhaps extol your role even further. But suffice it to say that it was——

Ambassador KAMPELMAN. You've got plenty of time as far as I'm concerned, Mr. Chairman.

Co-Chairman HOYER. It was an excellent 4 weeks for the United States and for the Helsinki process and I look forward to getting back and perhaps asking some additional questions because I think how we now pursue the games and see them to implementation is an important question and also what our objectives are going to be in Moscow a year from now.

Thank you. I'll be right back.

Chairman DECONCINI. Thank you. I'm going to yield to the senator from New York. He has to leave also in five minutes, if he has a question or a statement for the Ambassador.

Senator D'AMATO. Mr. Ambassador, I thank the Chairman.

There's something that is somewhat perplexing and I'm wondering if you could give us a little insight as to what took place in Copenhagen as it related to those Baltic nations, Lithuania, Estonia, and Latvia, who sought observer status, but did not attain that. I don't believe there was any formal presentation, but the matter was put to the side. One would raise that question when we see, for example, that Albania did get that status and certainly their record in human rights is rather pathetic. Hopefully we can make some changes in that area.

If you would touch on that tell us and what you see in the future in connection with observer status for the Baltic nations?

Ambassador KAMPELMAN. First, a word with respect to Albania. There was a provision in the 1975 agreement that was specifically aimed at the Albanian problem since Albania was the only one of the European countries that chose not to participate in it. That provision would have permitted Albania to request observer status as a way to get them into the process. I must say that my own reading of the provision led me to conclude that the provision had expired.

On the other hand, the executive secretary of the delegation, the Danish government which was involved in this since the Danes were the hosts, read it differently. On the basis of their reading of it, I felt that there was, in a sense, a continuing invitation for observer status. So observer status was granted with nobody objecting to it for Albania.

To finish the Albanian situation, I think that the belief now is that if Albania will agree to abide by the Madrid document, by the Helsinki Final Act itself, by the Vienna document, by the Stockholm Security document, and by the Copenhagen document, they will be admitted if they request admission. I'm told they would have to agree to abide by those documents or they are not likely to get the consensus necessary to move in.

Now with respect to the Baltic States. I had received a letter prior to Copenhagen from the newly selected president of Lithuania requesting some kind of status in the Helsinki process. I wrote back saying that since any admission to the Helsinki process required consensus, it was clear to me there'd be no consensus granted by the Soviet Union absent an agreement. I didn't see that alternative as realistic. On the other hand I said that I'd be very happy to meet with any representative that they would send to Copenhagen.

The second week, I believe, the foreign ministers of all three Baltic states did arrive. They asked for a meeting with me. I wanted to meet with them and I did meet with them. We had a very good discussion. They understood the American position. They all were eager for the ability to negotiate with the Soviets. In our opening comment at the Copenhagen meeting, we pressed the Soviets to begin those negotiations and we were critical of the Soviets for not beginning those negotiations.

It's interesting to me that at no point during the rather long discussion that I had with the three foreign ministers did they tell me that they wanted to apply for observer status. The very next day they apparently decided they would like to apply for observer status and asked for a press conference. Under the very reasonable rules established by the Danish hosts, if they wanted to use the facilities of the conference center, one of the 35 countries had to sponsor that press conference. The United States agreed to sponsor that press conference. I was pleased to agree to it. They did come. They had a large attendance. They were able to speak their minds and announce they wanted to have observer status.

They then sent a letter to the General Secretary, or whatever his title was, appointed by the Danish government, of the meeting. I remember it arrived on a Friday afternoon. I was having lunch at

the conference center when he came to see me that afternoon as I was sitting at the luncheon table. He asked me what to do about it since that day I happened to be the chairman of the day. That's done alphabetically.

I said, "Well, we must treat it with the dignity that it deserves. I'd like you to distribute this request to all of the 35 countries and I'd like you to respond to that request and indicate that we will try to see what response we get from the 35 countries to that." Again, realistically, I did not expect the Soviets to agree and I knew full well they would therefore not get the consensus they needed.

There was apparently some protest from the Soviets to that procedure that afternoon. I must say to you, Senator, that I knew nothing about it until Monday. But on Monday when I heard that my recommendation had somehow been interfered with, I just stepped in and saw to it that my recommendation was carried out. I talked to the Soviets about it, I talked to our allies, I talked to the Danish about it and indeed it was distributed. By then the Soviets recorded their objection to it.

So, interestingly enough, not only the United States but the Danish government and a number of other governments spoke and said they hoped that by the time of the Moscow meeting these three countries would be full-fledged members of the Helsinki process.

Senator D'AMATO. Mr. Ambassador, time does not permit me to go into this in greater detail and I've already intruded on the time of my colleagues. But I want to thank you for that explanation and I certainly urge you in your own inimitable style to continue to pursue this. I think it's important. I know you share in that sentiment and I want to congratulate you for at least bringing it to that point so that it just was not stifled or pushed off into the corner, but that you forced the Soviets to go through that procedure of objecting formally. Now we can continue to press on, as I know you will.

Again I want to thank you and commend you and my good friend Ambassador Schifter, who's been a kind of counselor to the Senator for a long time. Thank you.

Ambassador KAMPELMAN. Thank you.

Chairman DECONCINI. Thank you, Senator D'Amato.

I'll yield to Senator Lautenberg.

Senator LAUTENBERG. Thanks very much, Mr. Chairman. I'll try to be brief. I have another hearing to go to.

Ambassador Kampelman, I listened with interest, as usual, to your comments and was struck by your comments about bipartisanship and you refined it in a different way. But I think among the list of your credits is the ability to serve both Democratic and Republican administration with distinction, but even more important, longevity, and that's a real test of bipartisanship. You've managed to be called upon again and again for service to our country and it is with all great respect that I note that one doesn't have to be either Democrat or Republican to call on Max Kampelman and that's a distinction which I think you wear very well.

I was pleased to note that the Copenhagen conference adopted for the first time language that condemned racial, ethnic hatred, anti-Semitism, and all manifestations of discrimination or persecu-

tion on religious and ideological grounds. Unfortunately, since a great deal of the violence in Eastern Europe is not being committed per se by the states acting as states, but rather by individuals sometimes perhaps with even the encouragement of states and certainly in many cases with, let's call it, the indulgence of states, no overt acts of criticism or prosecution of those who would commit the violence.

I've got to ask you how useful is the language if it refers only to the responsibilities of states when we see violent acts of hatred and persecution being committed by individuals or groups within those states?

Ambassador KAMPELMAN. Senator, I have long felt that governments can have a tremendous influence on attitudes and behavior. I appreciate full well—and we had this discussion, I recall, at one working session in Copenhagen. I appreciate full well that a government cannot deal with the prejudice that lies in people's hearts. But that's an over simplification. First of all, the prejudice frequently leads to discrimination and that's an act. Governments can deal with acts.

But more importantly, the extent to which the governments sets a style, sets mores, establishes that which is considered proper civilized behavior and identifies contrary behavior for what it is. I think it can have an influence on a lot of people and I think that's the role of government.

I think you were correct in indicating that with a number of the governments where anti-Semitism, for example, has been prevalent—with other forms of prejudice as well—there's certainly a lack of leadership from the government to change the pattern. There's frequently acts of complicity, quiet perhaps, to do that. That's one reason why we press so hard for two inclusions. One, to go beyond the generalization and specifically include anti-Semitism; and two, to go beyond the generalization and specifically include gypsies. Nobody really said they were against the inclusion of anti-Semitism or gypsies, but questions were always raised, "But isn't that part of the broader, non-discrimination clause?" But we have to go beyond that, it seems to me.

One, we thought that the gypsy question was prevalent throughout large parts of the Europe. It was a disgrace really, and ought to be dealt with. And two, as far as anti-Semitism is concerned, the international community has, in my view, been derelict in its responsibility in that area. International organs have not been specific and they haven't been specific because they haven't been able to get the votes to be specific. I just thought that this international tribunal should be specific and, frankly, our colleagues were very pleased to join us. I was pleased, therefore, to see the result myself.

Senator LAUTENBERG. Well, when the concluding draft was developed, did it envision that a Helsinki signatory which agreed to this language, such as the Soviet Union, has a responsibility to take action against manifestations of anti-Semitism or ethnic hatred? And if so, does the United States intend to seek action on this language at the Human Rights Convention to be convened in Moscow for 1991?

Ambassador KAMPELMAN. Well, having accomplished the words in Copenhagen, we have now approximately 15, 16 months, to see

how those words are being implemented. We certainly should, in my view, examine the implementation of these words in Moscow. It would then be a fully appropriate course of action based on these words.

Senator LAUTENBERG. Well, we look forward to the continued emphasis and focus on those issues and by the time the convening in Moscow takes place, I hope that we'll have seen overt response to these deeds by the governments and particularly the Soviet Union.

I was told that at the Copenhagen Conference, the Soviet delegates referred to the possibility that the Soviet Union might soon be engaged in a civil war. That's no secret. Rumblings existed through that period and continue to this very day of enormous ethnic hatred, divisiveness, violence of one group against another. I understand that there was a general reluctance by countries other than the United States to criticize the Soviet Union on particular refusenik cases or on its record on other traditional human rights concerns, psychiatric abuses, because of President Gorbachev's delicate situation.

In your view, has that lessened the effectiveness of the Helsinki process to achieve traditional human rights goals? Is the United States—are we alone in our desire to achieve these freedoms? I know that we often get lip service from our other friends who are signatories, but do we have the support to pursue these objectives that are so important to our view of what the obligations under the Helsinki Accords are?

Ambassador KAMPELMAN. Let me at the outset say that at no time has any Soviet delegate said to me that he or she expects civil war in the Soviet Union. If that happened, that happened outside of my hearing and certainly never in any kind of an official meeting or session.

I've found the Soviet delegates concerned about developments in their country, but obviously patriotic, strongly supportive of the present government, which doesn't surprise anybody. And I think quite hopeful yet that they could pull the pieces together in their country. I wanted to make that clear.

Now, with respect to your second question, let me first say that when the Helsinki Final Act was drafted back in the 1970s, the heavy load for getting humanitarian provisions was carried by our allies even more than by us. For a long period of time we pulled out of serious negotiations in the process and they carried the load. They pushed it very hard. I have always found in my experiences with our allies in Europe a very strong and deep commitment to humanitarian and democratic values.

So, I'd have to answer you by saying we are not alone. We did sometimes have our own view as to how best to put pressure on the Soviets. There were differences on opinion on that. I recall having a conversation with a foreign minister of one of our allies where the question of naming the names of the victims of repression came up. We intended to name names. We named names in Madrid and we have named names since. This foreign minister indicated that he would not authorize his representative to do so and told me why. And they were good reasons why.

I remember what we talked about was, "You know, when you have a symphony orchestra, somebody plays the drums and some-

body else plays the piano and somebody else the harp. Sometimes you play the piano hard and sometimes soft. You've got to play different instruments, but what is important is that you play music together." I think our allies played music together all during this period. I don't think we should believe that it is only we who have pressed for this. They have pressed very hard for it.

I recall, for example, when—this is during the bad days in the Soviet Union—President Mitterrand of France was in Moscow at a state dinner.He spoke about Sakharov, who was still in exile, and took a lot of guts.

So, we have a lot of friends. We should know that and appreciate that. But we must assume leadership and keep pressing hard.

Senator LAUTENBERG. Mr. Ambassador, the reason I asked that question is I don't see the evolution of the human rights concerns at the same pace as I see the evolution of the commercial concerns that are manifest at this point. I don't hear the same kinds of questions that we in the United States ask, will you sign the emigration law, will you continue to pursue the preservation or the development of human rights, will you negotiate with Lithuania, will you extract yourself from Cuba, will you not participate in activities with these totalitarian regimes? I don't hear the same kind of pleas from our friends, from those who we traditionally count on.

I share what I think was your view, that it's critical that the present developments in the Soviet Union continue to succeed as I think, despite lots of bumps along the way, it has. I, for one, believe that Mr. Gorbachev deserves enormous credit for having opened up that society. People are leaving freely. People are able to communicate. Publications are produced. Differences of opinion are understood and heard. Parties are evolving. There's quite a change taking place there, one that far eclipses any thoughts that anyone might have had 5 years ago.

However, we do have the questions with the Baltic States, we do have the situation in Armenia. We do have the problems in other parts of the Soviet Union in which repression takes place among groups not supported by the government in terms of permitting people to express themselves freely.

So, Mr. Ambassador, once again I'm complementing you on the work that you've already done. We urge you to keep your interest and your activities there and we look forward to working with you in the future.

Ambassador KAMPELMAN. Thank you.

Senator LAUTENBERG. Thanks very much.

Chairman DECONCINI. Thank you, Senator Lautenberg.

I'll yield to Secretary Schifter, if he has any statement or any questions he cares to ask the Ambassador.

Secretary SCHIFTER. Thank you, Mr. Chairman. I do want to make one brief observation and then pose a question.

My observation is this. I think we generally agree today that the CSCE process has made a truly profound contribution to the events of 1989 in Eastern Europe. It has made that contribution in a significant way through the implementation debate. This is a central element of the CSCE process, the debate in which violations of human rights, violations of this kind are clearly exposed. I believe the record should show that it was Ambassador Kampelman who

at the Madrid meeting was responsible for developing this approach which has now become an essential element of the CSCE process.

I would therefore like to add to the earlier general comments that have been made about Ambassador Kampelman's contribution this very specific item which deals directly with the heart of the CSCE process.

Having made this observation, I also would like to raise a question concerning the possibility of the admission of Albania. I think what we may want to keep in mind is that after 15 years, at long last, we now have an operating consensus on principles in the CSCE process. The admission of Albania would not just constitute the admission of one other country, but would risk upsetting the present consensus.

Under these circumstances, one will have to be extremely careful before moving on this issue because our experience has demonstrated that mere adherence, the mere statement that we are going to abide by a particular set of provisions has not proved enough. The question has so often been asked as to why did Brezhnev sign in 1975. Well, a mere signature, a mere agreement to adhere to the standards of the CSCE process may not be enough. One has to make sure that once they join they will be genuinely committed to the process, genuinely committed so that we don't run the risk, as I say, of the present consensus being once again upset.

Chairman DeConcini. I yield to Co-Chairman Hoyer.

Co-Chairman Hoyer. Thank you.

I'm going to be very brief, Mr. Ambassador. I want to ask some specific questions, not necessarily philosophical questions. This meeting, I presume, was a little bit different.

First of all, can you give us a brief view of how the—and maybe if you've done this, I will ask you just to ignore the question—the NATO caucus functioned generally, and how it functioned vis-a-vis the E.C., the 12 caucus which has been an interesting process from time to time in some of these meetings, and thirdly, if you will tie in also an observation, and we'll try to make all these relatively brief because I know we want to get to our next witness, how the Warsaw Pact caucus, if one could call it that at this point in time, interfaced with itself and with the West. Obviously this was a new dynamic this time around.

Ambassador Kampelman. Yes. Let me just, if I may, add one word to what Secretary Schifter has said. I think his observation about Albania is a correct one and deserves serious thought. I don't know that we have all that time. There is a summit coming up in November and that might be the time when this issue could come up because all the 35 heads are meeting. I would think they clearly would have the authority to admit a 36th.

That is a decision that will ultimately be made by President Bush and Secretary of State Baker because if we don't want it, it won't happen. I wanted to note that. If this time passes and it's not acted upon now, then the next available time, as I see it, is Helsinki in 1992. But those are the only two occasions for it.

Now, with respect to your question, Congressman Hoyer, I thought the NATO caucus functioned quite well. We met regularly. Three and a half weeks is a quick period of time. At first we decid-

ed to meet twice a week. But as we got close to the end we really met everyday in order to take inventory as to where things stood and to talk through certain problems that we had.

The 12 met daily or pretty close to daily as a cohesive group. I found, however, that it did not interfere in any way with the NATO caucus. They did not necessarily act in a way to resolve issues and come out with a common position. We frequently found the discussions even continuing from the meetings of the 12 to the meetings of the NATO 16 and differences expressed between states who were members of the 12. So, I think it worked out fairly well.

My understanding is that the Warsaw Pact did not meet as a caucus at all. I heard over the weekend that they might have met once. If they met once, I was not aware of it. But you can see that whether it's one or zero, they did not function as a caucus at this meeting.

Co-Chairman HOYER. What about the individual East European states such as Czechoslovakia? I know that at the Paris meeting, Hungary, in conjunction with some Western countries, made some initiatives on its own. So, it was sort of a forerunner. But I understand there was quite a lot of activity——

Ambassador KAMPELMAN. Yes, that's a good point. Let me try and see if anything might be evolving out of the Copenhagen view.

We learned very early on in the meeting of a new group of five. One from NATO, meaning Italy. Czechoslovakia was part of it. Hungary was part of it. Yugoslavia, I believe, was part of it. The fifth——

Secretary SCHIFTER. Austria.

Ambassador KAMPELMAN. Excuse me?

Secretary SCHIFTER. Austria.

Ambassador KAMPELMAN. Austria, of course, a very important part of it. As a responsible group of five, they may have had ambitions to play a more vital role than they indeed did play, but they played a vital and significant and constructive role. In previous meetings, the neutral and non-aligned countries had a caucus of their own and were able to bridge differences between East and West. At least they made a serious effort to do so.

Since those East/West differences weren't there, the NNA group wasn't quite sure how to proceed. This five was an effort to provide a bridge within the five with somebody from NATO, somebody from the old Warsaw Pact, somebody from the NNA group. They did arrange for an initial meeting to be called by the Czechs.

Now, the Czechoslovaks played an interesting role here to by virtue of the symbolic leadership of the head of their delegation. The head of their delegation, Professor Hyak, had been one of those imprisoned by the old Czechoslovak regime. He had been one of those championed by us in Madrid when he was arrested and became a symbol of the New Europe and of what the Helsinki Final Act could do. He was an elderly gentleman and not well. So, he was kind of a senior person in the process.

So, the five arranged for him to call a meeting of the 35 and to suggest informal working procedures. Respectful of this, nobody challenged his doing so and a working group was developed. Actually, three working groups were developed headed by three differ-

ent countries. A Swiss headed one, an Austrian headed another, and a Hungarian headed the third. And it worked.

The Czechoslovaks were ready to play a continuing role if it had been necessary. It really was not necessary, so we were able to close with this new format. Will the five play a role in the future? I don't know. It's difficult for me to project that. I take my hats off to them for trying. We certainly welcomed all efforts in this regard.

You have a group of 35, which is a large group of people. Somebody tries to make some orderliness out of it. This is what they tried to do.

Co-Chairman HOYER. Thank you. I have a number of other questions that I'll pursue later, but I know we want to get to our next witness.

Chairman DECONCINI. Thank you, Mr. Hoyer.

Let me just follow up on a couple of things, Mr. Ambassador, and I'll be brief in my questions and maybe you could just give me some quick responses. Where and how did the Soviets object to the proposition regarding the Baltics that you explained to Senator D'Amato?

Ambassador KAMPELMAN. They went to the Executive Secretary and indicated very clearly that they opposed it.

Chairman DECONCINI. Nothing was put on the record? There was nothing done at a session or anything?

Ambassador KAMPELMAN. No. That was the extent of the record.

Chairman DECONCINI. That was it. And in that—along that regard, you said that the question of encouraging or the position that negotiations should be commenced between the Soviet Union and the Baltic countries, am I correct that that was the position of the United States and other countries?

Ambassador KAMPELMAN. It was.

Chairman DECONCINI. And do you think that will continue to be our position? How forceful do you think our government is to that because I'm advised, and I'm going to introduce him in just a moment here, just to be recognized, the Foreign Minister from Estonia who tells us that not only are there no negotiations going on with Lithuania, Estonia or Latvia, but there are subtle and maybe more than subtle repressive actions being taken short of another blockade. I just wondered if you could comment on how much we can expect to keep the pressure on and if this is the proper place to do it at the summit that will be going on soon in Paris.

Ambassador KAMPELMAN. The proper place to do it is every time we meet the Soviets, Mr. Chairman. We must pursue the objective of negotiations. It is my understanding that once the blockade was at least partially withdrawn, if not fully withdrawn, and the pressure reduced somewhat, that the negotiations did not continue. I want to say, reading the newspapers everyday and seeing Mr. Gorbachev present every day for the last couple of weeks at other meetings and involved in other headaches, I could understand that. I'm not surprised, although I could also see other people doing those negotiations. But they apparently have not taken place.

I cannot verify this, but I was informed over the weekend that regrettably some differences have arisen within the three Baltic States as well, which always adds to complications, though it's nat-

ural. It's not to be shocking news. But I think the United States must continue to pursue this and to press it.

Chairman DECONCINI. Well, of course I think so too, Mr. Ambassador. It really concerns me that we just looked at today a decree from the Soviet Union government which I haven't read and gone over, but it imposes a government authority over Estonia. The Foreign Minister tells us today that there are new number of Soviet paratroopers being staged inside Estonia. You know, it seems to me that we're easily lulled into thinking something's going to happen by good words and other deeds that, as Senator Lautenberg said and I agree, deserve great accolades. But certainly I think we've got to be cautious and keep the pressure up. You know that better than anybody from your success in not only Copenhagen and Madrid.

Let me ask you one last question regarding Albania. The point that Secretary Schifter raises is a very interesting point. Where do we do it? If it so happens that you get them in so you can put the pressure on, as you pointed out was the case in Madrid, Soviet Union, how do you argue not letting them in so you can put the pressure on?

My real question is do you think that the heads of state of the 35 signatories could let them in on a condition, on a period of time of implementation, number one? If they meet these conditions by accepting all these documents and the Final Accord and agree to comply with them, we will review this in 6 months or a year or something for final admission. Is that a doable approach?

Ambassador KAMPELMAN. I have to remind you, Mr. Chairman, that I'm not a member of the Administration or in the government now.

Chairman DECONCINI. I know you're not.

Ambassador KAMPELMAN. So I don't know what thinking process is taking place now within our government. I think an approach in which they come in and say, "We want to get admitted and we agree to abide by these documents," and we can say, "Fine, we're very pleased to hear that. If you want to come as an observer to Moscow, that's fine. We'll review this question finally in Helsinki in 1992," is not an unreasonable approach at all. I think it makes sense.

Chairman DECONCINI. Well, I realize you're not a member of the administration, but your advice is very helpful and that's why I wanted it on the record.

Ambassador KAMPELMAN. I think it makes a lot of sense.

Chairman DECONCINI. It just seems to me like this Commission might decide to make such a bold suggestion, if they haven't already thought of it downtown.

Thank you, Ambassador, very much.

Ambassador KAMPELMAN. Thank you, Mr. Chairman.

Chairman DECONCINI. Congressman Wolf, do you have any questions or a statement for the Ambassador?

Representative WOLF. I just want to thank the Ambassador for all the great work he's done. Thank you.

Ambassador KAMPELMAN. Thank you.

Chairman DECONCINI. I would do that too, Max, go into a great long statement which has all been said. I don't know what else we can say.

Ambassador KAMPELMAN. No, no, don't say anything more.

Chairman DECONCINI. We're grateful for your leadership indeed.

Ambassador KAMPELMAN. Thank you.

Chairman DECONCINI. Before we go to the next witnesses, I do want to introduce and have on the record the Foreign Minister of Estonia. Mr. Leonard Meri is here. Would you please stand up, Mr. Meri, and everybody can see you and we're very pleased that you're here today with us. Also, he's accompanied by the Counsel General, Mr. Jaakson. We're very pleased to have you here.

We'll now go to the next witnesses. We'll take both witnesses at the same time, if they'd come forward. Professor Thomas Buergenthal, a public member of the U.S. Delegation to the Copenhagen meeting, is a professor and has a long history of writings and involvement in international legal studies programs, et cetera. We're very, very pleased to have him. He has authored more than a dozen books and numerous articles dealing with international law, human rights and the Helsinki process.

Also we have Professor Hurst Hannum, also a public member of the U.S. delegation at Copenhagen. He was a Jennings Randolph Peace Fellow at the United States Institute of Peace and for 10 years was executive director of the Procedural Aspects of International Law, just to mention a few.

So, gentlemen, your full statements will be inserted in the record and we'll start with you, Mr. Buergenthal, Professor Buergenthal, if you'd like to summarize them for us, please.

STATEMENT OF PROF. THOMAS BUERGENTHAL, PUBLIC MEMBER OF THE U.S. DELEGATION TO THE COPENHAGEN MEETING

Professor BUERGENTHAL. Yes. Thank you very much, Mr. Chairman.

Let me say first of all that it's a great honor for me to appear before this Committee to talk about the Copenhagen meeting. But before I do, I'd like also to join the various members of the Committee to pay tribute to Ambassador Kampelman. Everything—I can't really add to say more about this diplomatic skill that he demonstrated, but I would like to say that not only did he demonstrate that skill, but he is held in such tremendous high esteem by other members of the delegation that our achievements at the meeting are in large measure due to his skill and to the esteem in which he is held.

I'd also like to say that I was tremendously impressed with your staff, the dedication, the enthusiasm of your staff and the ability of your staff and the State Department, the very able State Department officials, to work together as effectively as they did. For me, as a result, it was a great honor to serve on that delegation and a great eye-opener about what it means to participate in this activity.

Mr. Chairman, to me, the Copenhagen meeting marks a milestone in the CSCE process. We got some taste of what was to come

in Vienna. But Copenhagen to me provides tangible evidence that the CSCE can play an important role in speeding the transition of the East Bloc to democratic pluralism from totalitarianism.

What I find very significant, and I think we need to note that, is the fact that the Copenhagen document is the first pan-European charter to specify what the nature of government should be in the post-Communist Europe of tomorrow. It calls for a Europe based on the rule of law and for democratic pluralism, a Europe in which individual and minority rights are protected and free elections are held are reasonable intervals.

In short, the Copenhagen document provides a blueprint for a free and democratic Europe and as such it is a significant, historic instrument. It really captures the spirit of the revolution of 1989 and the hopes that inspired that revolution.

I think it's also important to note that unlike existing international human rights instruments, the Copenhagen document focuses on issues relating to the form and the nature of government and on the role of individuals and groups in society without neglecting human rights concerns. The document, I believe, thus has a political scope and significance not found in any contemporary international human rights treaty.

Of course it's one thing to have a document and it's another thing for countries to comply with it. But I do think it is significant that the mere fact that such a document was adopted by consensus says much about the political transformation that Europe is undergoing and about the yearning for freedom and justice and democracy of those who are just beginning to come out from under the yoke of communism.

I do think also, Mr. Chairman, that it vindicates the faith, the hard work and the commitment of members of this Commission and of many others in this country who refuse to give up home in those dark days of the past and who kept insisting and had faith that the changes that we see now would actually come to pass.

Mr. Chairman, the Copenhagen document and the transformation Europe is undergoing provide great opportunities and challenges. We have an opportunity to use the CSCE process to help bring true democracy and the rule of law to Eastern Europe. But to do that, we will have to find ways to adapt our participation in the CSCE of yesteryear to the demands and realities of today.

It was already mentioned that until Copenhagen our principal CSCE human dimension objective was to bring about some political liberalization of these to get political dissidents out of jail and out of insane asylums and to help people leave their countries and to ensure the exercise of basic rights. In large measure, in many of the countries, these objectives have been achieved.

Our goal now, I believe, must be to help institutionalize these changes. This means helping with the creation of governmental and political institutions, of justice systems and of legal and constitutional mechanisms capable of ensuring that the transition to democracy produces a democracy that endures. True democracy is a process. It is a political culture. It is a way of life. It must be learned and it must be lived and that requires education and institution building. Here the U.S. has much to offer and much that might be emulated by others.

Now, one might assume that in the CSCE of today, it would be easy for the U.S. to promote proposals on these subjects. That, unfortunately, is not true. In the past, opposition to our human rights and rule of law proposals came from the Communist Bloc nations. In Copenhagen, by contrast, some of our important rule of law proposals proved unacceptable to our NATO colleagues. The institutional reforms we proposed or wanted to propose would have posed real or imagined legal and constitutional problems for some of them.

I've referenced here, for example, the proposals relating to judicial review. Quite a number of countries, Western European countries, don't have judicial review of legislation. The same is true of freedom of information legislation, of civil control over intelligence agency and I could go on.

In other words, at the very moment when the east no longer objects at least on paper to substantial rule of law and human rights proposals, we're beginning to touch sensitive Western nerves. Our allies, in turn, are coming up with proposals that are unacceptable to us for similar reasons, constitutional reasons. And here we confront a dilemma that our interest really in the CSCE human dimension process is to help reform the political systems and strengthen the democratic institutions of countries that have only now freed themselves from communism. Our aim is not to change the constitutional systems of the U.K. or of France or West Germany, but it is going to get increasingly more difficult, Mr. Chairman, to do the former, that is to help the East establish effective democratic institutions, if we and our allies cannot agree on what these institutions should be.

These new realities suggest that the CSCE negotiating process is becoming much more complex than it was. It will require greater sophistication and much more advanced preparation by future U.S. delegations as well as extensive pre-conference consultation with our allies and other democratic nations.

Eastern Europe needs help with its transition to democracy. We have much to give based on our democratic experience as do the other democratic nations of Western Europe. But we will fail to translate this wealth of experience into CSCE commitments unless we take into account the new realities we face.

This means, in my opinion, that we should select our CSCE delegation substantially in advance of CSCE meetings. Position papers should be prepared early and reviewed by the delegation. The draft proposals should be circulated to our allies for comment in advance, substantially in advance. That we should respond in a timely fashion to their address, that experts should be consulted on specific issues and included in delegations and that there should be an ongoing dialogue between the staff of this Commission and the State Department in planning upcoming CSCE meetings.

It must also be recognized that even with the best of preparation, it will be ever more difficult to get the support of our allies for some important proposals we would want to see adopted as CSCE commitments. There constitutions won't permit them to do it, much as our constitution bars us from supporting certain of their proposals.

In dealing with this problem, Mr. Chairman, we need to remember that the follow-up process envisaged by the Helsinki Final Act also makes express reference to bilateral contacts. This Commission may therefore wish to hold hearings on the legal and constitutional reforms the U.S. should encourage in Eastern Europe, either acting alone or together with other nations. The focus here should be, of course, on practical methods for the implementation of CSCE commitments relating to democratic pluralism, to elections, to the rule of law, to human rights and to minority protection.

The political and moral legitimacy enjoyed by the CSCE process in these countries will make them more responsive to U.S. efforts to help put CSCE commitments into practice. Such efforts, in my opinion, would benefit greatly from congressional guidance and support. This Commission not only has the jurisdiction and the expertise to address these issues, it also, in my opinion, is the best forum to do so.

Thank you very much, Mr. Chairman.

Chairman DECONCINI. Thank you, Professor.

Professor Hannum?

STATEMENT OF PROF. HURST HANNUM, PUBLIC MEMBER OF THE U.S. DELEGATION TO THE COPENHAGEN MEETING

Professor HANNUM. Thank you.

Chairman DECONCINI. We'll include your statement in the record, Professor.

Professor HANNUM. Thank you.

Chairman DECONCINI. And I notice it has a number of exhibits or articles attached, what have you. Thank you. I wondered if you could summarize it for us.

Professor HANNUM. Yes. I'll be happy to do that, Mr. Chairman.

Chairman DECONCINI. Thank you.

Professor HANNUM. And thank you again for the privilege of appearing before the Commission.

I'd like to talk very briefly about what I think was perhaps the most significant aspect of the Copenhagen meeting, and that was its attempt, although not wholly successful, to address the question of minority rights.

At Copenhagen, Ambassador Kampelman opened his remarks on minorities by stating that "the protection of minority rights presents a major challenge to the CSCE states, and one that does not lend itself to a facile answer." This observation rightly underscores the extraordinary complexity of issues relating to minority rights and, as has been noted here before, these are issues that in many cases have lasted for decades if not centuries.

There were detailed proposals on various aspects of minority rights presented by 12 different countries, and it is truly remarkable that the Copenhagen meeting achieved sufficient consensus in only four weeks to adopt the principles which are contained in paragraphs 30 through 40 of the final document.

In considering what Copenhagen achieved it's also important to bear in mind that no existing international instrument deals with the full scope of minority rights. The few excerpts that I annexed

to my prepared statement indicate the extraordinarily weak provisions that thus far have been adopted.

While, as you noted, Mr. Chairman, the Copenhagen principles are vague in many respects and leave a great deal of discretion to governments in considering minority questions, I believe they do represent a significant advance over efforts to define minority rights in other international forums.

Without repeating the substantive summary in my proposed statement, let me just note that I think there were significant contributions in Copenhagen, particularly in the areas of the use of minority languages, education, and political participation. I'd like to discuss the last issue briefly, that is, the provision for effective political participation, because I think that it represents an important step forward.

The references in the Copenhagen document to "appropriate local or autonomous administrations" in paragraph 35 is a very important indicator of the kinds of solutions that can be investigated in this area, while at the same time respecting the principle of territorial integrity that is also included in the document. It would certainly be not politically possible, nor particularly helpful, to mandate any specific constitutional structure to deal with the existence of large, even territorially concentrated, minorities. However, this is one area in which one hopes that, in Ambassador Kampelman's words, "the politics of persuasion can replace the politics of coercion, fear, and intolerance."

Mr. Chairman, I'd be happy in response to questions to talk more about the substance of the various minority provisions, but I'd like to spend the remainder of my time suggesting some actions that might be taken within the CSCE context in the future on minority issues, both at the Moscow meeting and beyond. These are set forth in greater detail at pages 7 to 10 of my prepared statement.

First, as already mentioned by Secretary Schifter and Senator Lautenberg, the question of implementation is primary within the CSCE context. Even with their vagueness, the principles adopted in Copenhagen provide a solid basis for addressing implementation issues in the future, while being careful not to exacerbate tensions or violent conflicts. The United States certainly should feel free to challenge more obvious examples of discrimination and repression that occur in CSCE countries at the Moscow meeting and in the future.

Second, in my opinion at least, the Moscow meeting should attempt to address the controversial issue of which minorities are of concern to the CSCE participating states, which are presently limited to "national" minorities. Whatever its genesis in previous CSCE meetings where minority issues were only peripheral, this term must either be expanded or explained.

Every other recent attempt to address minority rights at the international level refers to ethnic, religious, and linguistic minorities as well as to national minorities, and I think it is essential that greater clarity be brought to the CSCE discussion of this issue. As CSCE documents are not legally binding, it may not be necessary to adopt a formal definition; that might, in fact, waste a great deal of time. At the same time, however, we must guard against the possibility that a state may seek to ignore the rights of a particular

group which it considers does not rise to the level of a "national minority."

Third, I believe that one has to think about creating more specific measures or mechanisms of implementation, both within the CSCE context and at the national level. Let me make four rather specific suggestions in this context.

(1) Participating states might be asked to provide information on measures that they have already adopted to protect and promote the rights of minorities within their territories. This information could include references to any national conciliation or mediation mechanisms that have been created and would be designed essentially to elicit positive information from countries which may have been successful in dealing with some of the difficult minority conflicts with which they are faced.

(2) Participating states might be asked to provide information as to the number and geographical distribution of minorities within their territory, including, where possible, information as to the economic and social conditions of such minorities. This would be a not uncontroversial proposal, which reflects a suggestion made by the Romanian delegation. But it might have the added advantage of identifying those minorities which states *do* accept can avail themselves of the rights set forth in the various Helsinki documents.

(3) A small CSCE secretariat (although I hesitate to mention the word "secretariat" or any permanent institution) should be created at the very least to compile the information to which I've just referred. It's very possible that, at least at the beginning stages, such a secretariat could in effect be provided by a national government that had a particular concern about these issues. The Austrian government comes to mind, as the Austrians played a leading role in the discussions of minority issues in Copenhagen. The secretariat that I would propose would primarily be concerned with compiling and analyzing information, not dealing with specific conflicts.

(4) In view of the geographical and historical similarities which do bind most of the CSCE countries, and in view of the lack of any other effective international mechanisms in the area of minority rights, consideration should be given—if not at Moscow, soon thereafter—to creating a CSCE committee on minorities. At least initially, such a committee of experts should be primarily concerned with entering into a dialogue with states and perhaps offering possibilities for conciliation or mediation, as opposed to being a body that would consider human rights complaints as such.

I realize that the official position of the United States government is not to encourage the proliferation or indeed the creation of permanent CSCE bodies, it is certainly true that the CSCE process should not duplicate other international mechanisms concerned with human rights. At the same time, however, I think that the sensitivity and complexity of minority rights are particularly suited to be addressed in the non-legal consensual atmosphere of CSCE. And the fact is that there simply is no other international mechanism that now deals effectively with minority questions.

The ability of the Copenhagen meeting to identify a substantial amount of common ground on minority issues suggests that there may be sufficient political will among the CSCE states to address minority/majority conflicts meaningfully in the future. I would rec-

ommend that the United States strongly support any initiatives which would take advantage of this political will both at the Moscow meeting and in the future.

Finally, let me end by adding my appreciation—and the brevity of my remarks should not detract from their sincerity—to Ambassador Kampelman, my other colleagues on the delegation, and particularly to the staff that assisted us in Copenhagen. They all did a tremendous job.

Thank you very much.

Chairman DECONCINI. Thank you, Professor.

I notice what appear to be some new standards dealing with minorities within the CSCE were set down in the document. In your opinion, does this add anything to existing international commitment which deal with minority rights?

Professor HANNUM. I believe it does, Mr. Chairman. As I noted in my statement, particularly in the areas of the protection of linguistic rights, rights to education, and at least the potential for broader political participation or autonomy, there are some new provisions.

Chairman DECONCINI. Some new ground was really broken there, then?

Professor HANNUM. Some new ground has been broken, although much of it is rendered a bit more difficult by references to national policies or national legislation. There is a lot of discretion left to states. This isn't earth-shattering precedent, and it is a step forward primarily because current standards are so minimal, not because it attempts to take great strides forward.

In fact, international norms since 1945 are less comprehensive than they were in the post-World War I period, when many of the so-called minority treaties included greater minority protections than we have now. The Copenhagen document certainly can be improved, but if I were forced, as a human rights advocate, to defend minority rights based only on these 3½ pages, I would consider that I had much more to work with now than I had before Copenhagen.

Chairman DECONCINI. Would you consider this kind of a high priority to build on in the Moscow meeting next year?

Professor HANNUM. I think it has to be. I must say that I was quite struck by the seriousness with which so many delegations were willing to address minority issues, as opposed to their actions in other forums, such as the U.N., where deliberations have dragged on for years over definitional questions. Here, in 4 weeks, there really was progress. It was suggested informally that the Soviets might in fact welcome the Moscow meeting being known as the "Meeting on Minorities." Without that formal designation, I think that there is no doubt minority issues will be an important concern, and I think that any trends in that direction should be encouraged.

Chairman DECONCINI. Professor Buergenthal, let me just ask you what sort of issues in your opinion were left unresolved in addition to the minority rights issue from the Copenhagen meetings that you think should be carried on to the Moscow meetings? Do you have any?

Professor BUERGENTHAL. Yes, I do. I do think that the whole area of the rule of law——

Chairman DECONCINI. Should be carried on?

Professor BUERGENTHAL. —should be pushed much harder, with much greater emphasis also on trying to get commitments from governments to build institutions in their countries that will strengthen compliance.

Chairman DECONCINI. Thank you.

I'm going to yield to the Chairman. I'm going to have to leave to go to a delegation meeting of the Arizona delegates.

I want to thank you very much.

Co-Chairman HOYER. Thank you, Mr. Chairman.

Professor Buergenthal, you mentioned some areas of negotiation in the rule of law and other sections where the U.S. had problems dealing with some of our allies and you referenced that in a relatively general way. Could you be perhaps more specific and give us some examples of where that difficulty existed and where it may crop up in the future?

Professor BUERGENTHAL. Yes. One example was, for example, we thought that it would be useful to try to encourage the newly emerging democratic countries in the East to develop systems for balance of power between the legislature, the executive, and the judiciary. That of course presents problems for various countries in Western Europe who don't have that system, so they immediately rejected that as a CSCE commitment.

The same thing was true, for example, even of the habeas corpus area. We were very interested in promoting a notion that if you are detained or arrested you should have a right to immediately challenge the legality of the arrest or detention before a judge. We found that we had to end up with a statement before a judge or other official, simply because a number of countries in the West don't bring individuals before a judge on a habeas corpus complaint. There were those type of problems.

Another one, we had hoped——

Co-Chairman HOYER. Before we go on, let me pursue that just to see if I understand what the substantive difference may be. Obviously, with respect to separation of powers in a parliamentary system the separation of powers is not evident between the executive and legislative branches, although isn't the concern essentially regarding the separation between the judiciary and the executive and/or legislative? And was there any substantive difference there in terms of the rule of law?

Really one of the things that we pursue in the process and one of the things we think is most necessary to be affected in the Soviet Union and other Eastern European nations is the independence of the judiciary to check arbitrary action of the executive. Was there any substantive difference there that you can think of?

Professor BUERGENTHAL. There was some substantive difference there. I think it was a substantive difference due mainly to some of the people who were negotiating for the West and really didn't I thought fully understand how their own system operated. For example, there was opposition to a statement saying that the judicial system should be independent and impartial. There was great difficulty getting that across, because in some countries the judicial

system is in the West in fact controlled by the ministry of justice. So you get those type of problems. I think for the most part they are not serious problems if we consult ahead of time and straighten these differences out. If, on the other hand, we go to Moscow with certain proposals without having developed them and without finding out what is acceptable to our allies, we're going to get very little more than what we got in Copenhagen.

Co-Chairman HOYER. Which leads us to the suggestion that a number have made in terms of preparation for Moscow, and you mentioned I think, which is earlier appointment of U.S. delegations to prepare them.

Professor BUERGENTHAL. Yes.

Co-Chairman HOYER. I think that's an excellent suggestion.

Professor BUERGENTHAL. And consultation is really critical in advance.

Co-Chairman HOYER. In terms of the negotiations regarding preelections, in the opening of that paragraph of that section it refers to the participatory states' responsibility to protect the democratic order from terrorism or violence aimed at the overthrow of that order. What was that caveat—which most of us would think would go without statement perhaps, aimed at? What were the concerns surrounding those negotiation and what limitations if any or reasons surrounded that discussion and debate?

Professor BUERGENTHAL. Well, I'm glad that you asked that question because it indicates the tension that exists. This was a provision that was put in at the insistence of the Irish government. As a matter of fact, we tried to weaken it and the form in which it appears now is a weaker statement than the original Irish statement. We in fact tried to convince them that all of this was implicit, but there was just no way to get their agreement on the election proposal unless this language came in. And it seems to be language that, while there are legitimate reasons for the Irish to be concerned about, it is language which of course waters down the type of things we want to achieve with regard to elections in the East, and that tension has existed on almost every major issue in the conference.

Co-Chairman HOYER. I think it would be accurate to state as we move towards a less bloc to bloc treatment within the CSCE process the more complicated will become the discussions.

Professor BUERGENTHAL. Yes.

Co-Chairman HOYER. I think we understand that that's going to happen. To the extent that we solve that problem, to that extent CSCE will play a continuing vital role, obviously. Professor Hannum, in talking about minority rights, particularly as both of you seem to agree Moscow may become the conference which focuses on minority rights, what were the substantive discussions that the Soviets participated in with respect to minority rights? What role did they play? What sensitivities did they demonstrate? Obviously the Soviet Union is confronted with probably as tough a problem dealing with so-called national minorities as any one of the CSCE signatories.

Professor HANNUM. While I wasn't able to stay in Copenhagen for all of the discussions, my impression is that the Soviets played a relatively minor role in the entire process. Some of the objections

to what might be seen as progressive or more protective statements came from governments such as Greece, Romania, and Bulgaria.

Because of the sensitivity of the issue in the Soviet Union (and also because of the fact that, on paper, the Soviet Union grants fairly extensive minority rights in terms of the ability to have one's own schools or to have one's language used in official documents), the Soviets decided to take a very low profile. I don't know if that will happen in Moscow, but I think that's one of the very important kinds of initial consultations that the U.S. should engage in well before next September.

Co-Chairman HOYER. I personally think that one of the things that the Commission ought to focus on is the question of minority rights. I think your testimony is instructive as we look to the Moscow meeting and as the question becomes increasingly dynamic, not only within Eastern states but within Western states as well. Minority rights is an area, Professor Buergenthal, where there's going to be a lot of discussion within the historically Western states as to exactly what does protection of minority rights entails and does not entail.

Well, we all have votes now, so they're calling us all away.

I want to again apologize for being absent during part of this hearing. I'm always very upset by the procedures that we have where we have hearings on days that we have votes. I have read your testimony, however, and appreciate it. I want to thank you both for your participation on the U.S. delegation. The willingness of people to participate in these delegations to both learn and to teach, and then to come back and participate in the process is extremely useful.

As we look to the next conference, I know Senator DeConcini and I are talking about how we can in a new context further the CSCE process, and you will be very helpful to us in that regard and we thank you for it.

Ludmilla Alexeyeva is here. I want to thank her as well. She was a Moscow Helsinki Group member and then a public member on the U.S. delegation last year in Paris, so we have some alumna here. She's not paying any attention to me, but we just congratulated you and thanked you for your participation last year and for your continuing participation.

I know Senator DeConcini has acknowledged Minister Meri from Estonia. I want to again express the opinion of the Chair, which I think is shared by every member of this Commission that this Commission feels very, very strongly about the issue of the Baltic states and we continue to want to have it very high on the agenda of the Administration and the Congress. We intend to pursue that and to have additional hearings perhaps later in the year, perhaps in September. We do not intend to pretend, merely because a little pressure has been taken off, that the issue has been resolved in any way. It is one that we think is central to the Helsinki process and we're going to continue to give it careful attention.

I want to thank you again. Ambassador Kampelman has left, but I thank him as well and thank all of you for attending.

[Whereupon, at 4:14 p.m., the above-entitled matter was concluded.]

APPENDIXES

APPENDIX I

STATEMENTS BY COMMISSIONERS

STATEMENT
BY
DENNIS DeCONCINI
CHAIRMAN, HELSINKI COMMISSION
HEARING: COPENHAGEN CSCE CONFERENCE ON THE HUMAN DIMENSION
JULY 18, 1990

It is a pleasure to welcome our distinguished witnesses and guests today to this hearing on the recently-concluded conference in Copenhagen. The Copenhagen meeting came at an historic moment in the CSCE process and its results mirror the democratic revolution we are witnessing in the Soviet Union and Eastern Europe.

A year ago in Paris, at the first of this series of three "human dimension" meetings, the CSCE process was still struggling to obtain commitments which would strengthen the progress made at the Vienna Review Conference. The United States' proposal on free elections, for example, was considered too far ahead of its time to be considered seriously in Paris.

The dramatic "Fall of '89" changed the course of history, however. With the collapse of communism in the Warsaw Pact countries has come the process of dissolving the barriers which have kept the CSCE states from achieving consensus on a common philosophy of government based on democratic principles.

Copenhagen achieved in four short weeks what we have been pressing for in the Helsinki process for the past fifteen years -- acknowledgement that governments derive their authority and legitimacy from the will of the people, freely and fairly expressed through periodic and genuine elections. In addition, the 35 CSCE states in Copenhagen agreed that the establishment of rule of law states are essential to the protection of fundamental freedoms and human rights.

The meeting was less successful in obtaining clear language on minority rights. However, the fact that this issue was squarely confronted in Copenhagen was an important contribution in itself. Copenhagen confirmed what many of us have been suggesting -- the CSCE process can and must become an avenue in which to search for constructive approaches to the just treatment of minorities.

The Copenhagen meeting also revealed a growing dynamic in the CSCE in which the traditional bloc-to-bloc approach is being replaced with the independent voices of the countries of Eastern Europe. While the homogenous profile of the East has dissolved, the European Community is asserting itself as a voice of 12 nations which must be dealt with.

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STATEMENT BY

REP. STENY H. HOYER

CO-CHAIRMAN, U.S. COMMISSION ON SECURITY AND COOPERATION IN EUROPE

JULY 18, 1990

I WOULD LIKE TO JOIN THE CHAIRMAN IN CONGRATULATING MY GOOD FRIEND AMBASSADOR KAMPELMAN AND PROFESSORS BUERGENTHAL AND HANNUM ON THE VERY FINE JOB THEY DID IN REPRESENTING THE UNITED STATES AT THE COPENHAGEN MEETING. THEIR LEADERSHIP AND CONSIDERABLE EXPERTISE PROVED INSTRUMENTAL IN PRODUCING THE FINE DOCUMENT WE WILL BE DISCUSSING TODAY.

THE FINAL DOCUMENT OF THE COPENHAGEN MEETING IS INDEED HISTORIC. THE 35 STATES AGREED THAT PLURALISTIC DEMOCRACY AND THE RULE OF LAW ARE ESSENTIAL TO ENSURE RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS.

IT IS PARTICULARLY APPROPRIATE THAT A MAN WHO HAS SPENT HIS PROFESSIONAL LIFE ADVANCING THESE VALUES SHOULD HAVE LED THE U.S. DELEGATION TO COPENHAGEN. THROUGH HIS ELOQUENT PUBLIC STATEMENTS AND PRIVATE MEETINGS, AMBASSADOR KAMPELMAN SKILFULLY GUIDED THE WORK OF THE CONFERENCE. HIS STRONGLY-HELD CONVICTIONS AND CONSIDERABLE NEGOTIATING TALENTS SHOW THROUGH CLEARLY IN THE COPENHAGEN DOCUMENT.

I WAS FORTUNATE TO HAVE THE OPPORTUNITY TO LEAD A CONGRESSIONAL

DELEGATION TO COPENHAGEN MIDWAY THROUGH THE MEETING. MY COLLEAGUES -- INCLUDING COMMISSIONERS WOLF AND FRITTS, AS WELL AS REP. CARDIN -- AND I WERE IMPRESSED BY THE ATMOSPHERE OF CONSTRUCTIVE AND MEANINGFUL COOPERATION WE FOUND THERE. AND WE WERE MOVED BY THE THEME STRUCK BY VIRTUALLY EACH AND EVERY DELEGATION: THAT WITHOUT TOLERANCE, WITHOUT RESPECT FOR THE PLURALITY OF IDEAS AND PEOPLES THAT INFUSE OUR CSCE COMMUNITY WITH VITALITY, ALL THE SOLEMN HUMAN RIGHTS COMMITMENTS THAT GOVERNMENTS MAKE MIGHT AS WELL BE DISAVOWED HERE AND NOW.

ONE OF THE CHALLENGES WHICH THE COPENHAGEN MEETING HAS BEQUEATHED TO THE PARTICIPATING STATES IS TO FOSTER TOLERANCE IN OUR SOCIETIES. IT IS A TASK IN WHICH ALL GOVERNMENTS AND PRIVATE CITIZENS CAN PARTICIPATE EQUALLY, AND IN WHICH NONE CAN AFFORD TO BE COMPLACENT.

ONCE AGAIN, I WOULD LIKE TO THANK OUR WITNESSES FOR THEIR DISTINGUISHED WORK IN COPENHAGEN AND FOR DISCUSSING THEIR IMPRESSIONS OF THE MEETING WITH US THIS AFTERNOON. THANK YOU, MR. CHAIRMAN.

18 July 1990

Senator Alfonse D'Amato

Opening Statement

Helsinki Commission Hearing

on

The Copenhagen Meeting

Mr. Chairman:

Today's hearing on the Copenhagen Human Dimension Meeting is particularly timely. I want to thank you and our distinguished Co-Chairman for scheduling it at this time.

I am pleased to see my old friend Ambassador Kampelman here

today. With his unmatched experience in CSCE matters, I look forward to hearing from him about this meeting and asking him for his views on the future of the process as a whole.

The role of the CSCE process is increasing dramatically after the Berlin Wall has fallen. It is taking the center of the European stage in many ways.

Events in the former East Bloc countries highlight the continuing importance of our human rights policy. Developments in Romania and Bulgaria show us that our work is not over. Change doesn't guarantee compliance with human rights

obligations. We need to continue to work to protect those rights.

I look forward to hearing from our distinguished witnesses and will not take any more of the Commission's time.

Thank you, Mr. Chairman.

STATEMENT OF
COMMISSIONER WILLIAM D. FRITTS, JUNIOR
AT THE HEARING OF THE CSCE ON THE
COPENHAGEN MEETING ON THE HUMAN DIMENSION, JULY 18, 1990

Mr. Chairman: I am pleased at the opportunity to participate in this hearing on the CSCE Copenhagen Human Dimensions Conference. I was honored to be included in the Congressional delegation which attended some of the concluding sessions of that conference. I learned a great deal at those sessions and anticipate learning even more from the witnesses at this hearing.

Protection of fundamental rights depends on the will of the people and the willingness of leaders to defend what Ambassador Kampelman has called "precious stones in the human mosaic."

As a Commissioner from the Department of Commerce, I am proud to be associated with the inexorable development of representative governments and human freedoms in which CSCE plays so critical a role.

I was fortunate to visit Copenhagen with Co-Chairman Hoyer and get a small glimpse of the work of CSCE. In a way, I think we are reliving the great moments of the last half of the 18th century, when great men in our own nation fashioned a system which is now a world model for the 21st century.

The private meetings with representatives of other individual nations were instructive. Not all the valuable work of CSCE is done in great halls. The forum provided by CSCE makes possible many beneficial contacts of an informal and private nature.

The Copenhagen Document is a comprehensive blueprint outlining the basic protections for human dignity. I am particularly pleased that it includes an awareness that peace and freedom and human rights include the right to participate in the economic stability so essential to human rights.

Paragraph 23 reaffirms the Vienna Concluding Document in promotion of economic, social, and cultural rights. It is my conviction that economic stability for individuals and families is a necessary ingredient for exercise of political and civil rights.

Secretary of Commerce Mosbacher has, since the beginning of this Administration, emphasized the theme that national security and economic security are part of the same value system. The Secretary, in his appearance before the Commission on June 12 of this year, said, "Human rights and the market economy are threads of the very same fabric."

The human dimension cannot be accomplished without due regard for the rights of individuals to acquire, hold, and use private property. If the last fifty years have taught us anything, it is that human beings need access to the means of survival on a reliable basis. Although we do not subscribe to the notion that totalitarianism feeds on want, world peace may in truth depend on the economic stability of the peoples of the world.

Secretary Mosbacher is convinced that economic strength is the greatest guarantor of the survival of democratic governments. I share that view, and I am gratified that much of the work of CSCE will, in the immediate future, deal with the economic infrastructure which will make possible the growth of democratic institutions and the protection of individual human rights in the newly reformed nations of Eastern Europe.

The Copenhagen Document is a milestone in establishing guidelines for democratic institutions. But much work remains to be done. Democratic institutions which developed over centuries in the West cannot be expected to jump full-blown into existence in Eastern Europe. These new nations deserve and need our best efforts to assist them to develop orderly transitions to stable, viable, representative governments which will themselves be guarantors of peace and security on the continent of Europe.

I am honored to play even a small role in that process. I echo the words of Secretary of Commerce Mosbacher: "The Commerce Department hopes to bring to the CSCE the benefits of a broad portfolio in environmental, economic, and trade issues, which we believe can have a positive role in shaping the Commission's policies and responses."

I look forward to the cogent views of Ambassador Kampelman and Professors Buergenthal and Hannum for their value in the future work of CSCE and for the necessary assessment of the Copenhagen conference.

APPENDIX II

STATEMENTS BY WITNESSES

STATEMENT BY AMBASSADOR MAX M. KAMPELMAN

Head of the U.S. Delegation to the

Copenhagen CSCE Conference on the Human Dimension

before the

Commission on Security and Cooperation in Europe

Washington, D.C. July 18, 1990

The second meeting of the Conference on the Human Dimension held in Copenhagen was a highly successful one. I am pleased to be here today to share my impressions and answer any questions you may have about it.

In Copenhagen, the Conference on Security and Cooperation in Europe (CSCE) took an extraordinary step forward. In my opinion, the document adopted in Copenhagen represents the most significant step forward since the Helsinki Final Act, although it may not achieve recognition as such until its provisions are proclaimed at the summit of the CSCE that is expected to take place this fall in Paris.

Why do I make this claim for the Copenhagen document?

The Copenhagen document represents an historic new consensus of the thirty-five participating States of the CSCE. Those states, soon possibly to be joined by Albania, are now formally committed to the principles of multiparty democracy and to the achievement of a lasting order of justice, peace and security, and cooperation in a new Europe. In effect, the Copenhagen document represents the first formal proclamation, by the 35 states themselves, of a Europe both whole and free.

This afternoon, I want to review with you some of the high points of the Copenhagen conference and of the document that was achieved there.

Our instructions for Copenhagen were to seek adoption by consensus of the U.S. proposal on free and fair elections that Congressman Hoyer originally tabled in Paris last June. We and our British and Canadian friends worked to expand and develop that proposal prior to Copenhagen. We achieved that objective with the virtually wholesale incorporation of our proposal on free and fair elections into the document.

A second priority in our instructions for Copenhagen was to support and advance proposals that would help to build democratic institutions and guarantee human rights and individual freedoms, in particular by strengthening the rule of law. The Anglo-French proposal on the rule of law, greatly and significantly improved in Copenhagen by the U.S. delegation, enabled us to more than meet this objective.

Our instructions further involved reviewing the working of the human dimension mechanism and considering how it might be improved. We did conduct a review of the mechanism in Copenhagen, but in the end we fell short of achieving a major step forward in developing it further. It will remain for future meetings to develop this idea.

A further point of our instructions asked us to ensure that the Copenhagen meeting was held in an open atmosphere that would set the right precedents for the Moscow meeting of the

Conference on the Human Dimension to be held in September, 1991. I am pleased to report that the Danish organizers did an excellent job in this respect, providing an unprecedented degree of access and openness for both non-governmental organizations and the media. Security arrangements were adequate and unobtrusive.

Mr. Chairman, history was made in other ways in Copenhagen. On the first day of the conference, a representative of Albania asked to be seated as an observer. The Executive Secretary ruled that this was in order and no one objected.

Later in the first week the foreign ministers of the three Baltic States also asked for observer status in Copenhagen. It was clear to them and also to us that no consensus existed on this question, but we insisted that they be given the dignity of a reply -- albeit the reply had to be negative -- from the Executive Secretary. We also officially voiced the hope that one day the Baltic States might take their own rightful place at the CSCE table. Our Delegation, furthermore, sponsored a widely attended press conference at the Conference Center for the foreign ministers of Latvia, Lithuania and Estonia.

The United States delegation made an historic departure in long-standing practice with respect to Yugoslavia by publicly mentioning human rights abuses in its Kosovo region. We also led the conference by invoking the human dimension mechanism with Romania after the violent attack by miners on dissident students and others in Bucharest's University Square.

The review of implementation of previous CSCE commitments that took place at the formal session was less thorough than in the past, but was, I believe, appropriate to the occasion. The Commission's formal presence at the Conference provided a number of opportunities for private and effective discussion of U.S. concerns about human rights violations in member states. I personally engaged in a number of such exchanges.

Let me here note two additional accomplishments of Copenhagen. We achieved what I believe is the first internationally agreed condemnation of anti-Semitism; and an explicit mention of the problems experienced by Gypsies in Europe. The dynamics of our three-and-a-half-week conference in a changing Europe with our emphasis on a major new document was pleasantly much more positive than ever before in my CSCE experience.

In this extraordinary period in the history of Europe and the World, the CSCE is playing an increasingly important role. The Bonn Conference on Economic Cooperation put real content into the neglected second basket of CSCE; we hope the Vienna talks on conventional arms reductions will make a major contribution to military security on the Continent; and the Copenhagen document has laid a firm foundation of freedom for all the peoples of the 35 participating States. CSCE has demonstrated it can rise to the occasion. The CSCE process is flexible and is responding to the demands of history. In

combination, these advances provide a sturdy basis for the summit of the 35 that we expect to take place this fall in Paris.

Now, Mr. Chairman, it is useful to summarize the main elements of the Copenhagen document for those who may not have had a chance to read it. Before doing so, I would like to hail our American delegation, a highly-motivated group of able and intelligent people drawn from the Federal government, the staff of this Commission, and from American public life. This document is their achievement, and I ask you to keep that in mind as I review some of its highlights. I particularly want to state on this occasion the splendid contributions made by your capable staff, Mr. Chairman.

A brief summary of the elements of the Copenhagen final document follows:

- The Copenhagen final document is built on the central premise that "pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms". The document expresses the "determination to build democratic societies based on free elections and the rule of law."

On the subject of democracy and the rule of law, the document:

- identifies the protection of human rights and fundamental freedoms as a basic purpose of government;

- sets forth the fundamental principles of justice which form the basis of the rule of law in a democracy, including the inalienable rights of man; representative, accountable and constitutionally-based government; independent judiciaries; equal protection of the laws; the right of redress of grievances; the presumption of innocence; and due process rights, among others.

On the subject of free and fair elections, the document:

- declares that the will of the people, expressed through periodic and genuine elections, is the basis of authority and legitimacy of government. It sets forth the practical elements constituting free and fair elections. It respects the right of individuals and groups to freely establish political parties and organizations and authorizes them to compete with each other on a basis of equal treatment before the law and by the authorities;
- recognizes that the presence of observers, both foreign and domestic, can enhance the electoral process for states holding elections.

On the subject of human rights and fundamental freedoms, the document:

- reaffirms international obligations to freedom of expression and communication, peaceful assembly and demonstration, association, thought, conscience and religion, movement and property;

In that context, the signatory states in the Copenhagen document:

- commit themselves to prohibit and take effective measures against torture and other cruel, inhuman or degrading treatment or punishment, including psychiatric abuse, which are deemed wholly unjustified under all circumstances;
- underscores that in a democracy any restrictions on human rights and fundamental freedoms must be truly exceptional and consistent with the state's international obligations;
- confirms that, even in a state of public emergency, any derogations from such obligations must strictly remain within the limits provided for by international law;

On the subject of minority rights, the CSCE member states:

- recognize that the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law;
- affirm that respect for the rights of persons belonging to national minorities are an essential factor for peace, justice, stability and democracy;
- commit themselves to protect the rights of persons to freely express, preserve and develop their ethnic, cultural, linguistic or religious identity and maintain and develop their culture free of any attempts at involuntary assimilation;

- recognize the rights of minorities to establish and maintain contacts among themselves within their country and across international frontiers;
- condemn totalitarianism, racial and ethnic hatred, antisemitism and all manifestations of xenophobia and discrimination against anyone, as well as persecution on religious and ideological grounds.
- recognize the particular importance of increased cooperation among the signatories for the benefit of national minorities and of encouraging the solution of problems through dialogue based on the principles of the rule of law.

On the subject of how CSCE can help protect human rights, the member states:

- reaffirm their commitment to develop the human dimension mechanism of the CSCE and explore ways it can be used to address minority rights concerns as well as other issues relating to the protection of fundamental freedoms. It was, incidentally, because of the extension of the human dimension mechanism to the subject of minorities, that we found ourselves unable to focus and obtain consensus on a strengthening of that mechanism by injecting, for example, a mediating role for the CSCE, a proposal advanced by us for consideration. The meeting

recognized the urgent need to deal with the explosive minority issue, but was not ready to deal with it directly at Copenhagen in the short period of time available. The Swiss have on the table a proposal for a special meeting to deal exclusively with the minority issue. All the states appreciate that the issue will be a major one at the third CSCE meeting on the human dimension scheduled for September, 1991.

Mr. Chairman, let me conclude by thanking you and your Co-Chairman personally for your services as Vice-Chairmen of our delegation. I want to thank Co-Chairman Steny Hoyer and those Commissioners who joined you in visiting and assisting us in Copenhagen. Their presence was a vivid demonstration for all to note that where human rights and human dignity are involved the American people and their government speak with one voice.

Finally, Mr. Chairman, through you I wish to thank the members of your capable and experienced staff who joined with the rest of us in a successful effort to leave Copenhagen with a strong historic document. They were a credit to our country and our values.

Thank you.

TESTIMONY OF THOMAS BUERGENTHAL*

BEFORE THE COMMISSION ON SECURITY AND

COOPERATION IN EUROPE

June 18, 1990

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Mr. Chairman, I am honored to appear before your Commission to reflect on the recent Copenhagen Meeting on the Human Dimension of the CSCE in which I had the privilege of serving on the U.S. Delegation as a public member.

Let me say, first of all, that the Delegation was most fortunate to have Ambassador Max Kampelman as its chairman. Our achievements are in large measure due to his ability to get all of us to work together as a team, to his diplomatic skills and, above all, to the great personal esteem in which he is held by the various delegations. I was also most impressed with the professionalism, dedication, and enthusiasm of the staff members of this Commission and of the officials of the State Department who comprised the Delegation. We all worked very hard, often under conditions that were less than ideal, and made a very fine team indeed. I feel truly honored to have served on this Delegation.

Mr. Chairman, the Copenhagen Meeting marks a milestone in the CSCE process. The Vienna Follow-up Meeting gave us a taste of things to come; Copenhagen provides tangible evidence that the CSCE can play an important role in helping to speed the transition of East bloc nations from totalitarianism to democratic pluralism.

The Copenhagen Document is the first pan-European charter to specify what the nature of government should be in the post-Communist Europe of tomorrow. It calls for a Europe based on the rule of law and democratic pluralism, a Europe in which individual and minority rights are protected and free elections are held at reasonable intervals. In short, the Copenhagen Document provides a blueprint for a free and democratic Europe. As such, it is a document of historic significance. It captures the spirit of the revolution of 1989 and the hopes that inspired it.

Unlike existing international human rights instruments, the Copenhagen Document focuses on issues relating to the form and nature of government and on the role of individuals and groups in society without, however, neglecting traditional human rights concerns. The Document thus has a political scope and significance not found in any contemporary international human rights treaty.

It is, of course, one thing to adopt a document and quite another to comply with it. But the mere fact that such a document was adopted by consensus -- it could not have been adopted even a year ago -- says much about the political transformation of Europe and about the yearning for freedom, justice and democracy of those who are just

beginning to come out from under the oppressive yoke of Communism. It also vindicates the faith, the hard work, and the commitment of the members of this Commission and of many others in this country who refused to give up hope in those dark days of the not so distant past.

The Copenhagen Document is not perfect. Even under the best of circumstances one cannot expect 35 nations to agree on a document that will reflect the maximum expectations of each. Not everything we would have liked to see in this document is in it. But we got a lot, and we certainly got more than most of us would have thought possible even a year ago. That is certainly true with regard to free elections and democratic pluralism; in part at least, it is also true of the rule of law commitments.

Mr. Chairman, the Copenhagen Document and the transformation Europe is undergoing provide great opportunties and challenges. We now have an opportunity to use the CSCE process to help bring true democracy and the rule of law to Eastern Europe. But to do that we will have to find ways to adapt our participation in the CSCE of yesteryear to the demands and realities of today.

Until Copenhagen, our principal CSCE human dimension objective was to bring about some political liberalization

in the East, to get political dissidents out of jail and out of insane asylums, to help people leave their countries and to ensure them the right to practice their religion and to exercise other basic rights. These objectives have to a large extent been achieved.

Our goal must now be to help institutionalize these changes. This means helping with the creation of governmental and political institutions, of justice systems, and of legal and constitutional mechanisms capable of ensuring that the transition to democracy produces a democracy that endures. True democracy is a process, it is a political culture, it is a way of life; it must be learned and it must be lived. And that requires education and institution-building. Here the U.S. has much to offer and much that might be emulated by others.

One would assume that in the CSCE of today it would be easy for the U.S. to promote proposals on these subjects. That unfortunately is not true. In the past, opposition to our human rights and rule of law proposals came from the Communist bloc nations. In Copenhagen, by contrast, some of our important rule of law proposals proved unacceptable to our NATO colleagues. The institutional reforms we proposed or wanted to propose would have posed real or imagined legal

and constitutional problems for them. I have reference here to proposals relating to judicial review, separation of power, freedom of information legislation, civilian control over intelligence agencies, and even effective habeas corpus remedies. In other words, at the very moment when the East no longer objects to substantial rule of law and human rights proposals, we are beginning to touch sensitive Western nerves. Our allies in turn are coming up with proposals that are unacceptable to us for similar reasons.

Here we confront the dilemma that our interest in the CSCE human dimension process is to help reform the political systems and strengthen the democratic institutions of countries that have only now freed themselves from Communism; our aim is not to change the constitutional systems of Britain, France or West Germany. But it is going to get increasinlgy more difficult to do the former -- that is, help the East establish effective democratic institutions -- if we and our allies cannot agree on what those institutions should be.

These new realities suggest that the CSCE negotiating process is becoming more complex. It will require greater sophistication and much more advance preparation by future U.S. Delegations as well as extensive pre-conference

consultations with our allies and other democratic nations. Eastern Europe needs help with its transition to democracy. We have much to give based on our democratic experience, as do the other democratic nations of Western Europe. But we will fail to translate this wealth of experience into CSCE commitments unless we take account of the new realities we are confronting.

This means that we should select our CSCE delegations substantially in advance of the CSCE meetings, that position papers should be prepared early and reviewed by the delegations, that draft proposals should be circulated to our allies for comment, that we should respond in a timely fashion to their drafts, that experts should be consulted on specific issues and included in delegations, and that there should be an ongoing dialogue between the staff of this Commission and the State Department in planning for upcoming CSCE meetings.

It must also be recognized, however, that even with the best of preparation it will be ever more difficult to get the support of our allies for some important proposals we would want to see adopted as CSCE commitments. Their consitutions won't permit them to do it, much as our

Constitution bars us from supporting certain proposals that appeal to our allies.

In dealing with this problem, we need to remember that the follow-up process envisaged by the Helsinki Final Act also makes express reference to bilateral contacts. This Commission may therefore wish to hold hearings on the legal and constitional reforms the U.S. should encourage in Eastern Europe, either acting alone or together with other nations. The focus here should be, of course, on practical methods for the implementation of CSCE commitments relating to democratic pluralism, elections, the rule of law, human rights and minority protection. The political and moral legitimacy enjoyed by the CSCE process in these countries will make them more responsive to U.S. efforts to help put CSCE commitments into practice. Such efforts would benefit greatly from Congressional guidance and support. This Commission not only has the jurisdiction and expertise to address these questions; it is also the best forum to do so.

Thank you very much.

THE COPENHAGEN CSCE MEETING:
A NEW PUBLIC ORDER FOR EUROPE

Thomas Buergenthal*

I. Introduction

II. The CSCE Process

III. The Document of the Copenhagen Meeting

A. The Rule of Law and Free Elections

B. Human Rights and Fundamental Freedoms

C. Democratic Values and Institutions

D. Minority Rights and Intolerance

E. Human Rights Mechanism

IV. Conclusions

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I. INTRODUCTION

The years 1989 and 1990 mark yet another milestone in the political history of Europe. Once again the map of Europe has been redrawn as so many times before. But this time it all happened quite suddenly and with hardly any bloodshed. Soviet Communism, which dominated Eastern Europe by force for more than four decades, collapsed into itself like a punctured balloon. The Soviet Union itself is undergoing a dramatic process of political and economic transformation. Its outcome remains uncertain, but what is clear is that Soviet withdrawal from Eastern Europe has made Europe freer today than it has been since World War II; it is probably freer than at any time in its history.

The drama and euphoria that these geopolitical changes produced found expression in the Copenhagen meeting of the Conference on the Human Dimension. Convened within the framework of the Conference on Security and Cooperation in Europe (CSCE), the Copenhagen meeting opened on June 5, 1990 and ended on the 29th of that month. It was the second[1] in a series of three meetings of the "Conference on the Human Dimension of the CSCE,"

[1] The first meeting took place in Paris from May 30 to June 23, 1989. It failed to adopt a Concluding Document.

which was mandated by the Vienna Concluding Document.[2] According to the Vienna Document, the "human dimension of the CSCE" embraces matters relating to "human rights and fundamental freedoms, human contact and other issues of a related humanitarian character."[3] The third meeting is scheduled for Moscow from September 10 to October 4, 1991.

The Copenhagen meeting was attended by the 35 CSCE participating States and by Albania, which requested and was granted observer status.[4] This was the first CSCE meeting to take place after the "velvet revolution" in Czechoslovakia, the demise of the East German Communist regime, the razing of the Berlin Wall, and the many other changes that Eastern Europe witnessed in the fall of 1989 and the spring of 1990. The diplomats gathered in Copenhagen consequently no longer represented the monolithic blocs that confronted each other in earlier CSCE meetings to exchange charges and countercharges regarding the non-observance of the human rights commitments proclaimed in the Helsinki Final Act. The spirit of the new Europe found expression in the speeches of the delegates to the 1990 Copenhagen Conference and in the text of the Document of the

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[2] See Human Dimension of the CSCE, Vienna Concluding Document, 28 I.L.M. 531, at 547 (1989); 10 Human Rights L.J. 270, at 290-91 (1989).

[3] Ibid.

[4] Albania was the only European state that declined to attend the Helsinki conference at which the Helsinki Final Act was signed on August 1, 1975. The text of the Helsinki Final Act is reproduced in 14 I.L.M. 1293 (1975).

Copenhagen Meeting (DCM). The DCM reflects the transformation of Europe and anticipates, albeit as yet only vaguely, the new problems and challenges that lie ahead for the nations which are only now emerging from behind the Iron Curtain. In its scope and the manner in which it deals with human dimension issues, the DCM, which will be analyzed in these pages, advances the CSCE process to a new and highly promising stage. It is utterly breathtaking, and a reflection of the times we live in, to think that such a document obtained the consensus of 35 governments.

II. THE CSCE PROCESS

The Copenhagen conference took place within the framework of the follow-up process established by the Helsinki Final Act.[5] That process, provided for in the last chapter of the Final Act, calls for intergovernmental conferences to be held by the participating States for the purpose of achieving "a thorought exchange of views on the implementation of the Final Act ... as well as ... on the deepening of their mutual relations, the improvement of security and the development of co-operation in Europe, and the development of the process of detente in the future." These follow-up conferences thus have a dual purpose: first, to review compliance by the participating States with their commitments; and, second, to explore ways to strengthen the cooperative regime which that instrument has established.

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[5] On the Helsinki Final Act generally, see J. Maresca, To Helsinki: The Conference on Security and Cooperation in Europe, 1973-1975 (1987). See also, T. Buergenthal (ed.), Human Rights, International Law and the Helsinki Accord (1977).

In the first few years following the adoption of the Final Act, CSCE meetings dealing with human rights did not advance much beyond the first step in the process. They tended to focus on implementation and soon deadlocked amid charges and countercharges of non-compliance. The West would accuse the Soviet Union and its allies of committing massive human rights violations; the latter would contend that these charges constituted an unlawful intervention in their internal affairs and, hence, a breach of the Final Act. This was the fate, for example, of the first Follow-up Conference, which met in Belgrade between October 4, 1977 and March 9, 1978.[6] Two subsequent follow-up conferences, one held in Madrid and the other in Vienna, did move to the second step of the process. Their Concluding Documents contain language that strengthened and expanded the human rights commitments found in the Helsinki Final Act.[7] Two other meetings -- the Ottawa Experts Meeting on Human

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[6] For the text of the rather inconclusive Belgrade Concluding Document, see 17 I.L.M. 414 (1978). For related documents, see 17 I.L.M. 1206 (1978).

[7] On the Madrid Conference, see A. Bloed & P. van Dijk (eds.), Essays on Human Rights in the Helsinki Process (1985); J. Sizoo & R. Th. Jurrjens, CSCE Decision-Making: The Madrid Experience (1984). For the text of the Madrid Concluding Document, see 22 I.L.M. 1398 (1983). On the Vienna Conference, see Tretter, "Human Rights in the Concluding Document of the Vienna Follow-up Meeting of the Conference on Security and Co-operation in Europe of January 15, 1989," 10 Human Rights L.J. 257 (1989). See also, Korey, "The Helsinki Accord: A Growth Industry," 4 Ethics and Int'l Affairs 53 (1990). The Vienna Concluding Document is reproduced in 28 I.L.M. 531 (1989); 10 Human Rights L.J. 270 (1989).

Rights[8] and the Paris Conference on the Human Dimension of the CSCE[9] adjourned without it proving possible for the participating States to obtain the requisite consensus for the adoption of a Concluding Document.[10]

An analysis of the follow-up process established by the Helsinki Final Act suggests that the concluding or final conference documents are instruments capable of modifying, amending or revising the Final Act or related CSCE documents. Hence, if a CSCE conference agrees on a concluding document which contains additional commitments or amplifications, then the document can be said to have amended or revised the relevant provisions of the Helsinki Final Act or any other applicable CSCE document. What we have here is a dynamic process capable of creating a growing body of CSCE commitments.[11] Each new

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[8] This meeting took place in Ottawa from May 7 to June 17, 1985.

[9] The Paris Conference met from May 30 to June 23, 1989.

[10] All CSCE conferences are governed by the consensus rule, which is articulated as follows: "Decisions of the Conference shall be taken by consensus. Consensus shall be understood to mean the absence of any objection expressed by a Representative and submitted by him as constituting an obstacle to the taking of the decision in question." Final Recommendations of the Helsinki Consultations, Ch. 6 (Rules of Procedure), para. 69 (1973). Known as the "Blue Book", the Final Recommendations contain the rules of procedure and related matters for the Helsinki Conference at which the Final Act was adopted. Unless other provisions are made, these rules continue to be applicable to all CSCE conferences and meetings.

[11] The undertakings the states participating in the CSCE process assume are characterized as "commitments" in order to make clear that they are not intended to create legal rights and obligations. CSCE terminology thus differentiates between political "commitments," on the one hand, and legal "obligations,"

concluding document thus forms a coherent whole with the Helsinki Final Act and any other applicable CSCE instruments. One cannot consequently assess the Document of the Copenhagen Meeting without viewing it as yet another building block in a normative edifice consisting of the Helsinki Final Act and the Madrid and Vienna Concluding Documents.

III. THE DOCUMENT OF THE COPENHAGEN MEETING

The Document of the Copenhagen Meeting (DCM) is divided into five chapters. The first chapter deals with the rule of law and free elections. Certain other basic rights are proclaimed in Chapter II, which also considers measures designed to outlaw and prevent torture, capital punishment, alternative service for conscientious objectors to military service, and a whole range of other issues, including states of emergency. Chapter III deals with democratic values and institutions. The rights of national minorities are considered in Chapter IV. The final chapter amplifies the four-step human rights mechanism that the Vienna Concluding Document established. Annexed to the Document is a so-called "Chairman's Statement," which deals with the access of non-governmental organizations and the media to CSCE human dimension meetings.

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on the other. On the difference, see Schachter, "The Twilight Existence of Nonbinding International Agreements," 71 Am. J. Int'l L. 296 (1977). See also, Kiss & Dominick, "The International Legal Significance of the Human Rights Provisions of the Helsinki Final Act," 13 Vand. J. Transn'l L. 293 (1980).

The flavor and spirit of the Copenhagen meeting can be gauged from the language of the introductory or preambular part of the DCM. In it, the participating States "welcome with great satisfaction the fundamental political changes that have occurred in Europe" since the May-June 1989 Paris meeting. They also "recognize that pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms, the development of human contacts and the resolution of other issues of a humanitarian character." Concepts such as "pluralistic democracy" and "the rule of law" had not been previously mentioned in CSCE documents. Neither had the following language, also found in the preambular section of the DCM, in which the participating States "welcome the commitment expressed by all participating States to the ideals of democracy and political pluralism as well as their common determination to build democratic societies based on free elections and the rule of law." True, these are merely words, but no such words would have been allowed into any CSCE document between 1975, when the Helsinki Final Act was signed, and June 1990, when the DCM was adopted.

A. The Rule of Law and Free Elections

What distinguishes this chapter of the DCM from earlier CSCE documents is the willingness of the participating States to move beyond the repetition of certain human rights guarantees found in all major international instruments on the subject. To be sure, there is some repetition and reformulation. But there is also

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much that is new, much that is found neither in earlier CSCE documents nor in international human rights instruments. What is new on a conceptual plane is the recognition by the participating States that their new Europe must be free, democratic and pluralistic, a Europe in which all government is subject to the rule of law. In short, this chapter commits the participating states to the establishment of a democratic Rechtsstaat, a democratic état de droit.[12]

The commitment to the democratic Rechtsstaat finds expression in paragraph 3 of the DCM, where the participating States "reaffirm that democracy is an inherent element of the rule of law," and in their determination "to support and advance those principles of justice which form the basis of the rule of law." (DCM, para. 2.) To ensure that the rule of law does in fact apply to and control all governmental activity, the DCM establishes "the duty of the government and the public authorities to comply with the constitution and to act in a manner consistent with law." (DCM, para. 5.3.) It stipulates that "the activity of the government and the administration as well as that of the judiciary will be exercised in accordance with the system established by law," (DCM, para. 5.5.) it provides for effective remedies to challenge administrative decisions, (DCM, para. 5.11.) and it requires an independent and

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[12] In English, the rule of law as a principle of government is equivalent to the concept of the Rechtsstaat or état de droit. For an American view of the subject, see J. N. Moore, The Rule of Law: An Overview (pamphlet, 1990).

impartial judiciary. (DCM, para. 5.12.) The participating States also commit themselves to "a clear separation between State and political parties," (DCM, para. 5.4.) and to the principle that the military and the police must be under the control of and accountable to civil authorities. (DCM, para. 5.6.)

In addition to these and related provisions which address the structure of democratic government, Chapter I of the DCM also articulates some basic due process principles embracing rights designed to protect the individual against possible abuses by the justice system. These rights do have their counterparts in the International Covenant on Civil and Political Rights and in the European Convention of Human Rights.[13] Some of them also repeat, rephrase or amplify provisions found in the Vienna Concluding Document. This is true, for example, of the right to a fair hearing and the right to counsel. Among the rights guaranteed in international human rights treaties, which the DCM reproduces, are the presumption of innocence, the right to be brought promptly before a judge to have the lawfulness of one's arrest or detention determined, and the principle of non-discrimination and equal protection of the laws. One important due process provision that the DCM proclaims has no precise counterpart in the Covenant or the European Convention. It reads as follows:

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[13] See L. Henkin (ed.), The International Bill of Human Rights (1981); M. Nowak, UNO-Pakt über bürgerliche und politische Rechte und Fakultativprotokoll: CCPR-Kommentar (1989); J. Frowein & W. Peukert, Europäische MenschenRechtsKonvention: EMRK Kommentar (1985).

"No one will be charged with, tried for or convicted of any criminal offence unless the offence is provided for by a law which defines the elements of the offence with clarity and precision." (DCM, para. 5.18.)

Chapter I also deals with elections, a topic not addressed by earlier CSCE documents. The overarching premise here is that "the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government." (DCM, para. 6.) To translate this principle into specific commitments, the participating States undertake, inter alia, to "hold free elections at reasonable intervals," (DCM, para. 7.1.) to "guarantee universal and equal suffrage to adult citizens," (DCM, para. 7.3.) and to "respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination." (DCM, para. 7.5.) They also commit themselves to "ensure that candidates who obtain the necessary number of votes required by law are duly installed in office...." (DCM, para. 7.9.) This chapter also contains a somewhat ambiguous provision designed to facilitate the presence of foreign and domestic election observers. (DCM, para. 8.) One provision, already mentioned in connection with the rule of law commitments, is also relevant to the subject of elections. It requires that there be "a clear separation between the State and political parties" and that "political parties will not be merged with the State." (DCM, para. 5.4.)

B. Human Rights and Fundamental Freedoms

Chapter II of the DCM is a grab bag of provisions dealing with a variety of human rights matters. In part, the focus here is on substantive human rights rather than on the due process of law rights found in Chapter I. This list includes rights that are already guaranteed by international human rights treaties, such as freedom of expression, freedom of assembly and association, freedom of thought, conscience and religion, and the right of everyone to leave his country and to return to it.[14] (DCM, paras. 9.1 to 9.5.) Some of these provisions restate, albeit with greater precision, commitments relating to rights proclaimed in earlier CSCE documents.[15] A number of DCM commitments are not, however, found in these earlier documents. The most significant among these is a provision dealing with the right to property.[16] In this provision the participating States "reaffirm" that "everyone has the right to enjoy his property either on his own or in common with others." It also declares

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[14] For an overview, see T. Meron (ed.), Human Rights in International Law: Legal and Policy Issues (1984), particularly the chapters by Lillich, id. at 115, and Humphrey, id. at 171.

[15] See, e.g., Helsinki Final Act, Guiding Principle VII; Vienna Concluding Document, paras. 16, 17 and 20.

[16] The inclusion of this provision follows on the heels of the adoption of the Document of the Bonn Conference on Economic Co-operation in Europe, which was mandated by the Vienna Concluding Document, para. 13, and met in Bonn from March 19 to April 11, 1990. The Bonn Document does contain various provisions relating to the protection and utilization of property. The Bonn Conference took place within the framework of Basket II of the Helsinki Final Act.

that "no one may be deprived of his property except in the public interest and subject to the conditions provided for by law and consistent with international commitments and obligations." (DCM, para. 9.6.) This stipulation adopts language that resembles, but is by no means identical to, the wording of Article 1(1) of the First Protocol to the European Convention.[17] By contrast, the International Covenants on Human Rights contain no provision ensuring the right to property. Since the Soviet Union and its former allies strongly opposed the inclusion of a right-to-property guarantee in the Covenants, its adoption in Copenhagen is an important indicator of changed attitudes.

This chapter also contains provisions which seek to bridge the gap that frequently exists between the proclamation of rights and the existence of conditions or practices necessary to ensure the exercise of these rights. Human rights instruments traditionally proclaim rights, but they do not as a rule deal with the practical elements that are indispensable for their full protection. Recent CSCE documents have begun to do so. Illustrative of this approach are two lengthy provisions in Chapter II, which deal with "the rights of the individual to know and act upon human rights and fundamental freedoms" (DCM, para.

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[17] Article 1(1) of the First Protocol to the European Convention of Human Rights reads as follows:

> Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

10, and paras. 10.1-10.4.) and with effective remedies for "violations of human rights and fundamental freedoms." (DCM, para. 11 and paras. 11.1-11.3.) On the latter subject, the DCM provides, for example, that "where violations of human rights ... are alleged to have occurred, the effective remedies available include ... the right of the individual to seek and receive assistance from others in defending human rights ... and to assist others in defending human rights...." (DCM, paras. 11 and 11.2.)

Chapter II also contains a number of important provisions concerning efforts to prohibit torture. (DCM, para. 16.) It addresses other issues as well, including the death penalty, (DCM, para. 17.) conscientious objections, (DCM, para. 18.) efforts to promote the free movement of people, (DCM, para. 19.) and the protection of the rights of migrant workers. (DCM, para. 22.) The chapter concludes with a carefully drawn provision designed to limit the powers of government to suspend human rights guarantees during a state of public emergency. This provision incorporates by reference the derogation clauses of the human rights treaties to which the participating States are parties. Here special emphasis is put on the requirements that "the imposition of a state of public emergency must be proclaimed officially, publicly, and in accordance with the provisions laid down by law" (DCM, para. 25.2.) and that "measures derogating from [international law] obligations will be limited to the extent strictly required by the exigencies of the situation."

(DCM, para. 25.3.)

C. Democratic Values and Institutions

The basic premise of Chapter III is "that vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions." To this end, the DCM encourages the participating States to cooperate for purposes of sharing ideas and expertise regarding, inter alia, constitutional reform, electoral legislation, the establishment and management of courts and legal systems, and a whole range of other issues that bear on the proper functioning of democratic societies. (DCM, para 26.)

An important provision in this chapter is paragraph 28, which relates to the role the Council of Europe might play in promoting democratic values and institutions within the CSCE framework. It reads as follows:

> The participating States recognize the important expertise of the Council of Europe in the field of human rights and fundamental freedoms and agree to consider further ways and means to enable the Council of Europe to make a contribution to the human dimension of the CSCE. They agree that the nature of this contribution could be examined further in a future CSCE forum.

The Council of Europe has not only pioneered the most effective system for the international protection of human rights through the adoption, elaboration and implementation the European

Convention of Human Rights;[18] it has also played a major role in the promotion of human rights and human rights education in Europe. Paragraph 28 of the DCM pays tribute to this contribution and suggests, albeit somewhat cautiously, a future role for the Council of Europe in advancing the human dimension objectives of the CSCE.

This caution may be due to two factors. One has to do with the fact that the CSCE has yet to make a decision whether to establish its own institutional framework. If it does, it would presumably wish to assume some of these functions itself or in cooperation with other institutions. The second factor relates to the problem that the membership of the Council of Europe comprises thus far only Western European nations. While its membership will no doubt be augmented by the entry of various newly democratic Eastern European states, it is unlikely that the Soviet Union will become a member of the Council of Europe in the very near future. Moreover, since the U.S. and Canada are extra-European states, their status as far as the Council of Europe is concerned presents its own set of complex problems. Thus far no one on either side of the Atlantic appears to have seriously analyzed the relevant options. Although none of these problems are insurmountable, it is clear that it will take time to resolve the question whether the Council of Europe should or can assume a

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[18] See Jacobs, "The European Convention on Human Rights," in R. Bernhardt & J. Jolowicz, International Enforcement of Human Rights 31 (1987).

special role within or in relation to the CSCE as a whole or in its human dimension activities. Paragraph 28 is an important start, if only because it may force all sides to focus on the role of the Council of Europe. It also opens the way for the Council of Europe to make itself an indispensable player in the CSCE human dimension effort. There is other language in this chapter and in Chapter IV relating to the Council of Europe that appears to encourage this approach. (DCM, paras. 27, 29 and 39.)

D. Minority Rights and Intolerance

As a general proposition it can be said that the international law of human rights traces its origins to international efforts to protect the rights of minorities.[19] For example, some of the international agreements concluded within the framework of the Concert of Europe, among them the Treaty of Paris of 1856 and the Treaty of Berlin of 1878, contained provisions designed to protect minorities.[20] The post-World War I period saw the institutionalization of minority protection within the League of Nations.[21] But the abuse by some minority groups of their status to advance irredentist interests between

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[19] See generally, L. Sohn & T. Buergenthal, International Protection of Human Rights 213 (1973).

[20] See generally, Capatorti, "Minorities," in R. Bernhardt (ed.), Encyclopedia of Public International Law, Instalment No. 8, at 385 (1985).

[21] P. de Azcarate, League of Nations and National Minorities (1945); Macartney, "League of Nations' Protection of Minority Rights," in E. Luard, The International Protection of Human Rights 22 (1967).

the two world wars and the efforts by a number of countries in Eastern Europe to rid themselves of their obligations under minorities treaties, regarded by them as unfairly imposed at the Versailles Conference, explains the absence of any references to minority rights in the Charter of the United Nations. Post-World War II human rights law, as reflected in the UN Charter and subsequent treaties, with minor exceptions,[22] eschewed minority protection in favor of the principle of non-discrimination and the protection of individual rights.[23] Over the years it has become increasingly apparent, however, that the Charter approach, while a significant advance, needed to be supplemented by some form of minority protection. Little progress was made in this regard until the Helsinki Final Act and the process it initiated began to address minority rights issues.

Principle VII of the "Declaration on Principles Guiding Relations between Participating States" of the Helsinki Final Act deals with minority rights in one of the eight paragraphs it devotes to human rights. That paragraph reads as follows:

> The participating States on whose territory national minorities exist will respect the right of

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[22] See, e.g., International Covenant on Civil and Political Rights, art. 27, which is a relatively weak provision at that. On Article 27, see Sohn, "The Rights of Minorities," in Henkin, op. cit. supra note 13, at 270.

[23] See UN Charter, arts. 1(3) and 55-56; UN Center for Human Rights, Human Rights: A Compilation of International Instruments (1988). See also, H. Hannum, Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights 50 (1990).

> persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.

Although this provision can hardly be said to go beyond the principle of non-discrimination and the protection of individual rights,[24] it does amount to recognition by the participating States that they owe a special duty to ensure that individuals belonging to national minorities are protected against discrimination. It also recognizes that individuals belonging to national minorities have, in that character, "legitimate interests" that are entitled to protection. The Madrid Concluding Document strengthened this proposition by stressing "the importance of constant progress in ensuring the respect for and actual enjoyment of the rights of persons belonging to national minorities as well as protecting their legitimate interests as provided for in the Final Act."[25] The Vienna Concluding Document devotes two paragraphs to minority rights issues.[26] The first requires the participating States to "exert sustained efforts to implement" the aforementioned provisions of the Helsinki Final Act and the Madrid Concluding Document

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[24] Capatorti, supra note 17, at 392.

[25] Madrid Concluding Document, Principles, para. 15.

[26] Vienna Concluding Document, Principles, paras. 18 and 19.

relating to minorities by "all necessary legislative, administrative, judicial and other measures." The second provision amounts to a major departure from the earlier commitments. Here the participating States declare that "they will protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory." This language constitutes the first explicit recognition within the CSCE of the principle that a national minority, as distinct from the individuals comprising the group, is entitled to protection and to the benefit of conditions promoting its identity. By taking this step, the participating States moved beyond non-discrimination and equal protection to minority protection.

By the time the Copenhagen Conference convened, serious civil disturbances and armed clashes involving national minorities in some Central Asian areas of the Soviet Union and in the Balkans attracted worldwide attention. Ancient animosities and conflicts that many thought had dissipated long ago reemerged with some of the fervor of bygone days. They reawakened fears of a revival of the gross abuses that minority groups suffered in the past in certain parts of Europe. It is therefore not surprising that the DCM devotes almost an entire chapter -- more than a dozen lengthy provisions -- to minority rights issues. Its scope and content make this chapter the most farreaching international statement on the subject to date.

There are a number of themes that characterize the DCM

commitments concerning minorities. The first is that "to belong to a national minority is a matter of a person's individual choice and no disadvantage may arise from the exercise of such choice." (DCM, para. 32.) This proposition is coupled with the principle of equal protection and non-discrimination in the enjoyment of basic rights. (DCM, para. 31.) The second theme is that the participating States recognize that "the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework, based on the rule of law, with a functioning independent judiciary." (DCM, para. 30.) The assumption here is that the legitimate interests and aspirations of national minorities can and must be addressed by peaceful democratic political means in a societal context that seeks to promote justice and mutual tolerance. (DCM, para. 36.) The third proposition is that persons belonging to national minorities "have the right to freely express, preserve and develop their ethnic, cultural linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will." (DCM, para. 32.) The exercise of this general right presupposes the recognition of a whole range of specific rights. The DCM accordingly spells out some of them. The list includes the right to use one's mother tongue in public and to disseminate information in that language; the right to establish special educational, cultural and religious institutions; the right to practice and profess one's religion and to conduct religious

educational activities; the right to maintain contact with other members of one's minority group, inside the country and abroad; and the right to work with international non-governmental organizations. (DCM, paras. 32.1 to 32.6.)

The fourth theme in the chapter dealing with minority rights shifts the focus from specific rights of individuals who are members of a minority to measures designed to protect the minority character of the group. Thus, for example, the participating States declare that they "will protect the ethnic, cultural, linguistic and religious identity of national minorities on their territories and create conditions for the promotion of that identity." (DCM, para. 33.) Another, rather ambiguous and somewhat confused provision, suggests the possibility of establishing "appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities and in accordance with the policies of the State concerned." (DCM, para. 35.) Some of these propositions are balanced with restrictions and limitations designed to make clear that the protection of minority rights and of minorities as such must not result in discrimination against others. (DCM. para. 33.) Moreover, no doubt motivated by concerns that national minorities not be used as political pawns by governments in their international relations, as was so often the case in the past, the participating States emphasize "the particular importance of increasing constructive co-operation among themselves on

questions relating to national minorities." To this end, they note that "such co-operation seeks to promote mutual understanding and confidence, friendly and good-neighbourly relations, international peace, security and justice." (DCM, para. 36.)

One remaining section of Chapter III was influenced in large measure by the hate campaigns against certain minority groups, the outbreak of antisemitic acts of vandalism, and the racist violence that shocked Europe in the fall of 1989 and the spring of 1990. On this subject, the participating States wanted to be on record that they "clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds." This provision also makes special mention of the "particular problems of Roma (gypsies)." (DCM, para. 40.) It also outlines a series of specific measures that the participating States commit themselves to take in dealing with these acts of intolerance and violence. (DCM, paras. 40.1 to 40.7.) Efforts at earlier CSCE conferences to condemn "antisemitism" by name failed in part because of Soviet opposition. In Copenhagen the USSR did not object to doing so. Another first was the willingness of the DCM to address the "problems" of the Romany people, although it did so only very much in passing. It is likely that future conferences will pay greater attention to this issue and to the discriminatory treatment encountered by migrant workers in

certain CSCE states. Some language in the DCM points in that direction. (DCM, para. 22.)

E. Human Rights Mechanism

Chapter V of the DCM amplifies the human dimension mechanism which was established by the Vienna Concluding Document.[27] That document created a negotiating process for the bilateral resolution of charges that a participating State did not comply with its CSCE human rights commitments. The mechanism consists of four steps. Step one provides for an exchange of information regarding a human rights situation or a specific case. Step two comes into play when this exchange of information does not resolve the matter. It calls for the holding of a bilateral meeting between the participating States concerned. Step three enables any participating State to "bring situations and cases on the human dimensions of the CSCE, including those which have been raised at the bilateral meetings ... [step two], to the attention of other participating States through diplomatic channels." Step four is designed to make clear that the participating State may raise the subject of the bilateral negotiations at CSCE follow-up meetings or CSCE Human Dimension Conferences and that they may provide information concerning these negotiations.

As might have been expected, it is one thing to set up a mechanism, it is quite another to make it work efficiently. This is particularly true when no provisions are made for deadlines

[27] See Vienna Concluding Document, section on "Human Dimension of the CSCE."

indicating how much time may elapse between the receipt of a request for information and the response thereto (step one). Moreover, the Vienna mechanism also fixed no deadlines for the convening of the bilateral meetings to which it refers (step two). The DCM attempts to remedy some of these defects. It provides that the responses for information (step one) should be provided in as short a time as possible "but no later than four weeks," and that this information should be in writing. (DCM, para. 42.1.) As far as the bilateral meetings are concerned (step two), the DCM provides that they "will take place as soon as possible, as a rule within three weeks of the date of the request." (DCM, para. 42.2.) Finally, the DCM also provides that the participating States are to refrain in the bilateral meetings "from raising situations and cases not connected with the subject of the meeting, unless both sides have agreed to do so." (DCM, para. 42.3.) This stipulation is designed to prevent the bilateral meetings from degenerating into an endless exchange of charges and countercharges, with the latter being introduced only in order to impede the negotiating process on the original charges.

Chapter V also calls attention to the fact that the Copenhagen Conference considered various proposals for the establishment of different types of institutions to improve "the implementation of the commitments relating to the human dimension of the CSCE." (DCM, para. 43.1.) None of these proposals obtained the necessary consensus. It is clear, however, that

this subject will be brought up again within the CSCE process. There was consensus in Copenhagen on that point, with the participating States deciding "to continue to discuss in subsequent relevant CSCE fora these and other proposals designed to strengthen the human dimension mechanisms, and to consider adopting, in the context of the further development of the CSCE process, appropriate new measures." (DCM, para. 43.2.)[28] It cannot be doubted that there is a need for a further refinement of the human dimension mechanism and for the establishment of some institutional framework to supervise its application.

F. Chairman's Statement

The third meeting of the Conference on the Human Dimension of the CSCE is scheduled to be held, according to the timetable established by the Vienna Concluding Document, from September 10 to October 4, 1991 in Moscow. To ensure that NGO's and the media have unimpeded access to the meeting, the Chairman's Statement, consistent with earlier precedents, lays down various rules bearing on "the practices of openness and access" for NGO's and the media. It also declares that the participating States agree to these rules and that the practices of openness and access are "of importance to all participating States." By agreement, the Chairman's Statement is attached to and forms part of the DCM.

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[28] A similar statement is found in the Vienna Concluding Document, which provides that the functioning of the human dimension procedures should be assessed at the main CSCE Follow-up Meeting to be held in Helsinki on March 24, 1992.

IV. CONCLUSION

The Document of the Copenhagen Meeting reflects the geopolitical transformation of Europe in a dramatic way. The concept of a democratic, pluralistic society subject to the rule of law -- a principle to which all participating States committed themselves in Copenhagen -- makes for a very different Europe from the Europe that existed in 1975 when the Helsinki Final Act was adopted. Of course, no one is so naive as to believe that the acceptance of the concept of a democratic Rechtsstaat automatically transforms all 35 European nations into such states. Even if all of them had the very best of intentions of complying with these commitments, which is something that remains to be demonstrated, it would still take years for some countries to accomplish this goal. It must be acknowledged, however, that the acceptance of the concept would not have been possible even a few years ago; its acceptance now must, consequently, be viewed as tremendous progress. The mere existence of the instrument is also very important in itself. There has always been a long and often arduous time gap between the adoption of those human rights instruments that became the great milestones on the road to human freedom and the day, if ever, when they are fully complied with. This has been true of the Magna Carta, of the French Declaration of the Rights of Man, of the American Declaration of Independence, and of the Universal Declaration of Human Rights.

The contents of the DCM, with its emphasis on the rule of law, on pluralism and free elections, and on the protection of

minorities, make it a landmark international charter.[29] Unlike other contemporary human rights documents, such as the Universal Declaration, the Covenants or the European Convention, the DCM focuses on issues relating to the form and nature of government and the role of individuals and groups in society without, however, neglecting traditional human rights concerns. It is thus a document which, in its political scope and significance, is unmatched by other international human rights instruments. The fact that it is not a legally binding instrument but a political commitment does not really affect its long-term potential significance. After all, neither the Magna Carta, the American Declaration of Independence, the French Declaration of the Rights of Man nor the Universal Declaration were adopted as legally binding instruments. They became the historic milestones they are today because, over time, they captured mankind's imagination as eloquent expressions of universal hopes and aspirations about human rights and freedom. That aspect, not their legal character, explains their overriding political and moral impact and their influence.

Whether the DCM will acquire a similar status remains to be seen. What cannot be doubted, however, is that the DCM does contain a substantial body of significant commitments capable of setting the moral and political tone for a new European political

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[29] One major European newspaper hailed its adoption as the promulgation of a "Constitution." Ring, "Die KSZE-Staaten geben sich ein Grundgesetz," Suddeutsche Zeitung, No. 148, p. 8 (June 30-July 1, 1990).

order. That Europe would eschew totalitarianism, authoritarianism and any other form of political oppression. It would be a democratic Europe in which human rights would be respected and in which different racial, ethnic, religious, national and cultural groups could live and work together in peace. Only time will tell whether all this is but one more utopian dream or the dawning of a new political era.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Prepared Statement of

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18 July 1990

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The CSCE Process and the Rights of Minorities

Ambassador Kampelman opened his remarks concerning the question of minorities at the Copenhagen Meeting by stating that "the protection of minority rights presents a major challenge to the CSCE States, one that does not lend itself to a facile answer." He closed those remarks by noting, "The protection of minority rights is a multifaceted question. By their actions, governments can deepen the fissures among peoples, or they can help shape solutions that enhance and beautify their societies as a whole. The progress we achieve in CSCE on minority rights issues will reflect the choices we make."

These observations rightly underscore the extraordinary complexity of issues relating to minority rights. Thoughtful and detailed proposals on various aspects of minority rights were submitted by the delegations of Austria, Czechoslovakia, Hungary, Italy, Yugoslavia, Romania, Canada, the Federal Republic of Germany, the Netherlands, Spain, and Portugal, and it is remarkable that the Copenhagen meeting should have achieved

sufficient consensus in four short weeks to adopt the principles contained in paragraphs 30 through 40.7 of the Final Document.

To place the Copenhagen principles in context, one should recall that no existing international instrument deals with the full scope of minority rights. Article 27 of the Covenant on Civil and Political Rights considers only questions of culture, religion, and language, and the Convention on the Elimination of All Forms of Racial Discrimination deals primarily with the problem of discrimination against persons based on their national or ethnic origin. In more than ten years of deliberations, a working group of the UN Commission on Human Rights has been able to "agree" upon only nine rather minimalist articles of a draft declaration on minority rights, and major portions of that draft remain subject to future deliberations.[1]

In the CSCE context, the Vienna Concluding Document contained only brief references to minorities, although it did include an undertaking to "protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities."[2] The Helsinki Final Act mentioned minorities in the context of equality before the law and also recognized the contribution to culture of "national minorities or regional cultures."[3]

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1 The texts of these provisions are annexed to the present statement.

2 Vienna Concluding Document, Principle 19; also see Principle 18.

3 Helsinki Final Act, Principle VII; Basket Three, §3.

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The Copenhagen Concluding Document

While the Copenhagen principles are vague in many respects -- and leave a great deal of discretion to governments in considering minority questions, they do represent a significant advance over efforts to define minority rights in other international forums. Of course, some provisions -- such as those relating to equality and non-discrimination -- essentially repeat existing human rights norms, although their reiteration in the context of minority rights is welcome. A similar observation might be made with respect to various provisions relating to religious rights and freedom of information and expression.

The three areas in which the Copenhagen principles contribute most significantly to minority rights concern the use of minority languages, education, and political participation.

The denial of linguistic rights has practically been a hallmark of the repression of minorities, despite the fact that the right to use one's own language should be considered to fall within the scope of contemporary norms concerning freedom of expression. Paragraph 32 of the Copenhagen principles States that persons belonging to national minorities "have the right freely to express, preserve and develop their... linguistic... identity," while subsequent provisions mandate free use of one's mother tongue in private as well as in public (para. 32.1); freedom to conduct religious educational activities in one's mother tongue (para. 32.3); freedom to disseminate, have access

to and exchange information in one's mother tongue (para. 32.5); and "wherever possible and necessary," the opportunity to use one's mother tongue before public authorities, "in conformity with applicable national legislation" (para. 34).

The last-mentioned provision does not require a State to provide translation services for every member of a linguistic minority within its territory. However, it should be read to imply a good faith obligation on the part of every State to make public services and information available at least to major segments of the population who may not speak the "official" language of the country.[4] In any event, no one should suffer discrimination for speaking his or her own language, as has been the case with Kurds in Turkey, Turks in Bulgaria, and native Americans in our own country.

Education is fundamental to the preservation of any culture, minority or majority. It has been the primary vehicle through which majority societies have attempted to assimilate minorities, and it should not be surprising that minority communities view the right to maintain their own educational institutions as essential for self-preservation. The right to education is inextricably linked to the right of minorities "to maintain and develop their culture in all its aspects, free of any attempts at

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4 In some respects, this obligation might be compared to that placed upon public authorities to ensure access for disabled members of society, although a given individual may be more able to learn a second language than to overcome a physical or mental disability. The principle of equal and effective access, however, is the same.

assimilation against their will" (para. 32), and the Copenhagen principles specifically recognize the right of national minorities "to establish and maintain their own educational... institutions,... which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation" (para. 32.2).

Of course, the State retains the right to require that schools within its jurisdiction meet certain universal standards, so long as those standards do not violate fundamental religious, linguistic, or other rights. The Copenhagen principles define the obligations of States in this respect quite carefully: "States will endeavor to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue.... In the context of the teaching of history and culture in educational establishments, they [the participating States] will also take account of the history and culture of national minorities." (para. 34)

These provisions do not guarantee the right of minority communities to establish their own unilingual schools (unless students attend such schools in addition to any required attendance at public schools), nor do they mandate bilingual education in public schools. The principle at stake is not use of language per se; it is rather the ability of a minority to preserve its cultural distinctiveness, including its language, in

a manner that is compatible with its relationship with the majority society in which it lives.

The potentially most far-reaching paragraph in the Copenhagen principles is paragraph 35, which concerns the effective participation of minorities in public affairs. Perhaps unfortunately, although understandably, the reluctance of some States to address this issue more directly resulted in a very weak formulation of this principle, which some may read as requiring little more than one person-one vote.

A more appropriate reading, however, would underscore the notion of effective participation in political life. This suggests meaningful de facto participation, which may include certain "special measures" comparable to those required to ensure "full equality" for minorities in the exercise of human rights (para. 31). The formulation adopted certainly does not require that minorities or their members be given a veto over democratic majority decisions, but it does mean that "mere" democracy may not be enough.[5]

"Autonomy" is not a term of art, nor can its adoption resolve every minority-majority conflict.[6] Nevertheless, the

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5 For example, there were few credible allegations (apart from the time-honored practice of gerrymandering) that elections in Northern Ireland between 1920 and 1972 were technically unfair, yet the unchallenged dominance of a single (democratically elected) party resulted in the total exclusion from power of members of the Catholic-Nationalist minority.

6 On this topic, see generally Hurst Hannum, Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights (Philadelphia: Univ. of Pennsylvania Press, 1990).

reference to "appropriate local or autonomous administrations" in paragraph 35 is an important indicator of the kinds of solutions that should be investigated, while respecting the principle of "territorial integrity" referred to in paragraph 37. It would be neither politically possible nor particularly helpful to mandate any specific constitutional structure to deal with the existence of even large, territorially concentrated, minorities. However, this is an area in which one hopes that, in Ambassador Kampelman's words, "the politics of persuasion [can] replace the politics of coercion, fear, and intolerance."

Recommendations for Future CSCE Activities

The Copenhagen meeting reached no decision as to the desirability of a special meeting of experts (or politicians) on the question of minority rights. Nevertheless, the evident concern on the part of nearly all delegations in Copenhagen ensures that minorities will be an important -- indeed, perhaps the major -- item on the agenda of the Moscow meeting in September 1991. What are the most fruitful issues which could be addressed in Moscow and in subsequent meetings within the context of CSCE?

First, the principles adopted in Copenhagen offer a solid basis for addressing minority issues generally and, more particularly, the record of CSCE countries in implementing those principles. Without exacerbating tensions or violent conflicts, the United States should challenge the more obvious instances of discrimination and repression that come to its attention -- and

it must be prepared to answer questions which are likely to be raised about racism, anti-Semitism, and discrimination against native Americans and Hispanics in this country.

Second, the Moscow meeting should address the controversial issue of which minorities are of concern to the CSCE participating States. The present limitation to "national" minorities, whatever its genesis in previous CSCE meetings where minority issues were only peripheral, must be either expanded or explained. All other recent attempts to address the issue of minority rights refer to ethnic, religious, and linguistic minorities, as well as to national minorities, and greater clarity within the CSCE context would be welcome. As CSCE documents are not binding legal texts, adoption of a formal definition may not be necessary (and may only hinder the process). At the same time, one must guard against the possibility that a State may simply ignore the rights of a group which it does not consider rises to the level of a "national" minority.

Third, more specific measures or mechanisms of implementation should be created to deal with the particularly sensitive issue of clashes between minorities and majorities. While the CSCE process itself provides a useful international component, more important for the real protection of human rights would be a commitment by national governments to specific actions. These might include the following:

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A. Participating States would provide information on measures they have adopted to protect and promote the rights of minorities, as defined in relevant CSCE documents. This information would inclu a reference to any national conciliation or mediation mechanisms that have been created.[7]

B. Participating States would provide information as to the number and geographical distribution of minorities within their territory, including, where possible, information as to the economic and social conditions of members of such minorities.[8]

C. A small CSCE secretariat, perhaps seconded from a national government, should be created to compile information on minorities received from participating States.[9]

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7 It might be noted that somewhat similar information has been requested from States by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities in its Resolution 1989/44 (1989). Thus, such a request in the CSCE context would not impose an additional burden on States and would undoubtedly contribute to CSCE consideration of the issue.

8 This recommendation is similar to a proposal made by the delegation of Romania to the Copenhagen meeting, CSCE/CHDC.7 (1990). If CSCE discussions remain limited to "national" minorities, such information would be essential in order to identify which groups each State considers to fall within that category.

9 This recommendation is pursuant to para. 43 of the Copenhagen Concluding Document, in which the participating States agreed "to continue to discuss... proposals designed to strengthen the human dimension mechanism, and to consider adopting... appropriate new measures."

D. In view of the geographical and historical similarities which bind most of the CSCE countries, and the lack of other effective international mechanisms in this area,[10] a CSCE Committee on Minorities should be created. At least initially, such a committee of experts should be concerned primarily with entering into a dialogue with States over both general and specific minority problems and offering possibilities for conciliation or mediation.[11]

Achieving an acceptable balance between minority and majority communities is one of the fundamental tasks of a democratic government. Yet, even as democracy spreads in Eastern Europe, minority grievances continue to be raised from Quebec to Uzbekistan.

The CSCE process should not duplicate other international mechanisms for the protection of human rights. However, the increasing congruence of interest among the participating States -- particularly since the dramatic democratic developments of the past year -- may offer opportunities for advancing human rights which are unavailable in less homogeneous forums.

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10 It might be noted that the European Convention on Human Rights contains no provision which directly addresses minority rights.

11 Similar proposals were made at Copenhagen by Austria, Czechoslovakia, Hungary, Italy, and Yugoslavia (CSCE/CHDC.5); Romania (CSCE/CHDC.7); and Canada, the Federal Republic of Germany, and the Netherlands (CSCE/CHDC.11).

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The sensitive and complex issue of minority rights is one that is particularly appropriate to be addressed in the non-legal, consensual atmosphere of CSCE. Both Europe and North America have suffered from ethnic and other minority conflicts, and the intellectual and political experience gained from those conflicts should not be wasted.

The ability of the Copenhagen meeting to identify a substantial amount of common ground on minority issues suggests that there may be sufficient political will among CSCE States to address minority-majority conflicts meaningfully. The United States should strongly support initiatives to take advantage of that political will at the Moscow meeting and beyond.

[end]

12

Annex

COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Article 1

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life....

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

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Agenda item 20

OPEN ENDED WORKING GROUP ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL, ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

REPORT OF THE WORKING GROUP ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL, ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Chairman-Rapporteur: Ms. Zagorka Ilic (Yugoslavia)

I. INTRODUCTION

A. Establishment of the Working Group

1. By resolution 1989/61 the Commission on Human Rights decided to establish at its forty-sixth session an open-ended Working Group to continue consideration of the revised draft declaration proposed by Yugoslavia (E/CN.4/Sub.2/L.734), taking into account all relevant documents.

2. The Working Group held six meetings on 12, 15, 16, 20 and 22 February and on 5 March 1990.

3. At its 1st meeting on 12 February, the Working Group unanimously elected Ms. Zagorka Ilic (Yugoslavia) as its Chairman-Rapporteur.

B. Documentation

4. The Working Group had before it the following documents:

(a) Provisional agenda (E/CN.4/1990/WG.5/L.1);

Annex I

TEXT OF THE DRAFT DECLARATION AS ADOPTED IN FIRST READING

Draft declaration on the rights of persons belonging to national or ethnic, religious or linguistic minorities

The General Assembly,

Reaffirming that one of the basic aims of the United Nations, as proclaimed in its Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

[Reaffirming] [Reiterating] [Declaring] faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

Desiring to promote the realization of the principles [concerning the rights of] [persons belong to] [minorities] which form the basis of the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Elimination of All Forms of Racial Discrimination as well as other relevant international instruments [that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations],

Inspired by [Based on] the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,

Considering that the promotion and protection of the rights of persons belonging to [national or] ethnic, religious or linguistic minorities contribute to the political and social stability of States in which they live,

Confirming that friendly relations and co-operation among States, which take place in the spirit of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, contribute to international peace and security and to the creation of more favourable conditions for the realization and promotion of human rights, including the rights of [persons belonging to] [national or], ethnic, linguistic and religious minorities,

Emphasizing that the constant promotion and realization of the rights of persons belonging to minorities, as an integral part of the development of society as a whole and within the constitutional framework, would in turn contribute to the strengthening of friendship and co-operation among peoples and States,

Bearing in mind the work done so far within the United Nations system, in particular the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities as well as the bodies established pursuant to the International Covenants on Human Rights and other relevant

international human rights instruments on promoting and protecting the rights of persons belonging to [national or] ethnic, religious or linguistic minorities,

Recognizing the need to ensure even more effective implementation of international human rights instruments relating to the rights of persons belonging to [national or] ethnic, religious or linguistic minorities,

Proclaim this Declaration on the Rights of Persons Belonging to [National or] Ethnic, Religious or Linguistic Minorities:

Article 1

1. [Persons belonging to] [national or] ethnic, linguistic and religious minorities (hereinafter referred to as minorities) have the right to respect for, and the promotion of, their ethnic, cultural, linguistic and religious identity without any discrimination.

2. [Persons belonging to] minorities have the right to life, liberty and security of person and all other human rights and freedoms without discrimination.

Article 2

1. In accordance with the Charter of the United Nations and other relevant international instruments, [persons belonging to] minorities have the right to be protected against any activity, including propaganda, [directed against minorities] which:

(i) may threaten their existence [or identity];

(ii) [interferes with their freedom of expression or association] [or the development of their own characteristics]; or

(iii) otherwise prevents their full enjoyment and exercise of universally recognized human rights and fundamental freedoms.

2. In accordance with their respective constitutional processes [and in accordance with the relevant international treaties to which they are parties], all States shall undertake to adopt legislative or other appropriate measures to prevent and combat such activities, with due regard to the principles embodied in this Declaration and in the Universal Declaration of Human Rights.

Article 3

1. [Persons belonging to] minorities have the right, individually or in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, and to use their own language, freely and without interference or any form of discrimination.

2. All States [which have not yet done so] shall [take measures to create favourable conditions to enable [persons belonging to] minorities to freely]/[ensure that [persons belonging to] minorities are freely able to]

express their characteristics, to develop their [education,] culture, language, religion, traditions and customs, and to participate on an equitable basis in the cultural, religious, social, economic and political life in the country where they live.

3. To the same ends, persons belonging to minorities shall enjoy, without any discrimination, the right to establish and maintain contacts with other members of their group [and with other minorities], especially by exercise of residence within the borders of each State, and the right to leave any country, including their own, and to return to their countries. [This right shall be exercised in accordance with national legislation and relevant international human rights instruments.]

Article 4

1. All States shall take legislative or other appropriate and effective measures, especially in the fields of teaching, education, culture and information, to promote and protect the human rights and fundamental freedoms of [persons belonging to] minorities.

2. Such measures shall include facilitation of the enjoyment by [persons belonging to] minorities of their freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, in particular through utilization of all forms of communication. [This freedom shall be exercised in accordance with national legislation and relevant international human rights instruments.]

3. Such measures should also include the exchange of information [and experience] among States in the aforementioned fields, with a view to strengthening mutual understanding, tolerance and friendship among all people, including [persons belonging to] minorities, [as well as to develop further friendly relations and co-operation among States in accordance with the Charter of the United Nations.]/[as well as to develop further international co-operation in the spirit of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.]

Article 5

1. Nothing in this Declaration shall prevent the fulfilment of international obligations of States in relation to [persons belonging to] minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.

2. This Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.

3. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations and, in particular, contrary to the sovereignty, territorial integrity and political independence of States.

4. In exercising their rights [persons belonging to] minorities shall respect the universally recognized human rights and fundamen

[Article 6

Member States of the United Nations shall endeavour, depending on their specific conditions, to create favourable political, educational, cultural and other conditions and to adopt adequate measures for the protection and promotion of the rights of minorities proclaimed in this Declaration.]

Article 7

(a) [Persons belonging to] [national,] ethnic, religious or linguistic minorities have the right to preserve their identity, and to participate effectively in the affairs of the State, and in decisions concerning the regions in which they live [through national institutions and, where possible, regional institutions].

(b) National policies and programmes, as well as programmes of international co-operation and assistance, shall be planned and implemented with due regard for their legitimate interests.

Article 8

The organs and specialized agencies of the United Nations system shall contribute to the full realization of the rights and principles set forth in this Declaration, within their respective fields of competence.

New article

This Declaration shall be carried out in a spirit of mutual understanding, tolerance, [good neighbourliness] and friendship among States and [all peoples]/[peoples] and [national], racial, ethnic, religious and linguistic groups in conformity with the purposes and principles of the United Nations.

To be included within a resolution accompanying the Declaration

(i) The Secretary-General shall organize regional and global technical meetings to stimulate an exchange of experience in this field among governments and with the people affected by this Declaration;

(ii) The Sub-Commission on the Prevention of Discrimination and Protection of Minorities shall undertake annually a review of the national and international measures which have been taken for the implementation of this Declaration, and report on the problems encountered and progress achieved;

(iii) States shall provide, as far as possible, information on the identity, numbers, location, organization, and social and economic characteristics of minorities in their reports to bodies established under United Nations conventions in the field of human rights;

(iv) United Nations organs and specialized agencies shall give special consideration to requests for technical co-operation and assistance that are designed to achieve the aims of this Declaration.

APPENDIX III

STATEMENTS SUBMITTED BY NON-GOVERNMENT ORGANIZATIONS

Supreme Committee for the Liberation of Lithuania - VLIKAS

COMMENTARY ON THE COPENHAGEN CONFERENCE ON

HUMAN DIMENSION

JUNE 5 THROUGH 29, 1990

Testimony of Dr. C. Kazys Bobelis, Vice-chairman of the Baltic World Council and Chairman of the Supreme Committee for the Liberation of Lithuania, presented to the U.S. Commission on Security and Cooperation in Europe

July 18, 1990
Washington, D.C.

Suite 400, 1609 Connecticut Ave. NW • Washington, DC 20009
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SUPREME COMMITTEE FOR THE LIBERATION OF LITHUANIA

The CSCE Conference on Human Dimension held June 5 through June 29, 1990 in Copenhagen, Denmark, was a very significant event for the re-evaluation and appraisal of the implementation of the principles of the Helsinki Final Act and as they relate to the different aspects of human and national rights, cooperation among the participating states and fulfillment of the agreements reached at the Vienna and Paris meetings.

The conference as a whole was conducted in a relaxed, open and cordial atmosphere. Delegations presented their views on various issues without any hesitations, and sometimes with open frankness. In some cases, even direct accusations were fired, as in the discussions of the problems existing in Romania, Cyprus, Greece, Yugoslavia and others.

However, that was not the case in regard to Soviet Union. The reluctance or restraint by the participating states not to criticize the behavior of the Soviet Union or Mr. Gorbachev's policy toward the Baltic States -- Lithuania, Latvia, and Estonia -- was quite discernible and unusually obvious.

Mr. Gorbachev's harassment and intimidation of the people of Lithuania for their desire to reestablish Lithuanian independence was barely mentioned. While the Soviet economic blockade of Lithuania imposed by Mr. Gorbachev's presidential decree of April 18, 1990, the expulsion of Western journalists, and the denial of visas and visits to Lithuania among the other violations of the Helsinki Act were not discussed at the conference. This was a great disappointment, especially since the Conference on Human Dimensions is the place to openly voice these blatant human rights violations. Only a few notable exceptions were made in this case: Iceland, Ireland, Norway and the United States.

At the beginning of the Copenhagen conference the proceedings seemed to deviate from the accepted procedural rules. This was glaringly evident, when the chairman of the host country provided observer status to Albania. This was done without placing Albania's request on the agenda and without much consultation. Most delegations were caught by surprise by the Chairman's action especially, since Albania has one of the most abysmal human rights records of any country in Europe. By the same token, Lithuania's request for observer status was denied by the conference secretary with no explanation. Even though the foreign ministers of Lithuania, Latvia and Estonia made special efforts to attend the conference.

The CSCE Secretariat's decision not to submit Lithuania's request for discussion was regrettable, since most of the delegations that I and my colleagues visited indicated support for Lithuania, or at the very least, expressed a desire to remain neutral with regard to the Baltic issue. These actions, we feel, did impinge on the credibility of the Helsinki process.

In fact, I believe that it would have been a great victory for Western and emerging East European democracies if the U.S.S.R. refused the Baltic request for observer status, particularly since the Soviets are looking forward to the 1992 Conference in Moscow, and have admitted that the Hitler-Stalin Pact of 1939 was an illegal act of aggression resulting in the occupation of Lithuania, Latvia and Estonia.

We appreciate the host country Denmark's hospitality and would like to express our gratitude for providing NGO delegates with free access to the conference and its support for meetings of the parallel organizations.

This was in striking contrast to the first Human Dimension meeting in Paris last year, where NGO delegates were treated rudely and virtually viewed with disdain. In Paris the NGO's were looked upon as unwelcome guests. Denmark should be complemented for its handling of NGO's throughout the conference.

We certainly hope that at the summit meeting in Paris next fall, France will follow the example set by Denmark regarding NGO's. Reputable, accredited NGO organizations, supported by the delegations of the participating states are not disruptive and should not be prevented from presenting their views.

We are also grateful to Ambassador Kampelman, Senator DeConcini, Congressman Steny Hoyer, and the staff of the U.S. Helsinki Commission and the U.S. delegation for their compassion and assistance. They deserve our sincere gratitude, for without their support our objectives would not have been accomplished.

The chairman of the U.S. delegation, Amb. Kampelman, was a masterful leader, a true expert in the art of international diplomacy. He was easily accessible and always willing to respond to any questions. We are especially grateful to Ambassador Kampelman for meeting with the foreign ministers of Lithuania, Latvia and Estonia, and with the Baltic World Council representatives.

Admission to the plenary sessions, diplomatic area, press room, and meetings with delegations of the participating countries, was graciously provided through cooperation of the members of U.S. delegation -- Jane Fisher, Sam Wise, John Evans, Paula Dobriansky, Orest Deychakiwsky, Maido Kari, Erica Schlager, Margot Sullivan and others.

In conclusion, I would like to appeal to our government not to inflate Mr. Gorbachev's importance in the changes taking place throughout Eastern Europe and the Soviet Union. It is the people of the Soviet Union, who through a spontaneous human reaction can no longer tolerate the failings of an economic, political, and social communist system. Communism is crumbling and not even glasnost can provide food or a standard of living acceptable to the general Soviet population. Mr. Gorbachev is doing all he can to protect and maintain the communist form of government, but realizing that this may no longer be possible, he is attempting to establish a communist-style democracy.

The United States must take into account these historic changes now occurring in the Soviet Union and should act to assist those fundamental democratic reformers who seek our assistance and recognition. More recently, Boris Yeltsin's resignation from the Communist party, and the declaration of the Ukraine for greater sovereignty, continue to underscore the fact that Mr. Gorbachev is not the only factor dictating change in the Soviet Union. The U.S. must not be caught behind the eight ball as it was in Iran, the Philippines and Nicaragua, where major political changes took place which caught the United States by surprise. Inside the Soviet Union major changes are taking place which will shape the future of the Soviet Union, its republics and the world. If the U.S. wants to stay on top of the game in the USSR, it must begin a dialogue with the leaders of the various democratic movements and the newly elected governments of Lithuania, Latvia and Estonia and even the Russian republic. It is time for the United States to consolidate these historic democratic achievements.

As such, Lithuania's restoration of independence should be recognized, the people of Lithuania remain committed to the restoration of independence, and are undaunted by Soviet economic pressure to rescind the declaration of independence and tow the communist line. Their peaceful struggle to restore independence is fully sanctioned by the Helsinki process and yet the Lithuanians must continue to endure countless human rights violations by the Soviet Union, while the world's diplomats remain silent, afraid to challenge the status quo. Not since Stalin's time have the Soviets used an embargo of food and basic medical supplies as a weapon against a passive people. The cruel Soviet economic blockade of Lithuania continued throughout the conference with no mention of this blatant human rights violation at all.

We continue to believe that Mr. Gorbachev and his regime are unsalvageable and any help or attempts to appease his proposed glasnost or perestroika programs, will only prolong the agony of the eventual democratization of the Soviet Union and the independence-seeking republics.

Again, I would like to thank the members of the U.S. delegation, the Chairman of the Delegation, members of Congress and the staff for their assistance during the Copenhagen conference. We hope that greater achievements will be realized soon, ones which will incorporate the ever changing geo-political framework and realities of the Soviet Union, as the Conference on Human Dimension returns to Paris next year.

Thank you,

Dr. C.K. Bobelis,
Chairman, Supreme Committee
For the Liberation of Lithuania
1609 Connecticut Ave. NW
Washington, D.C. 20009

WORLD CONGRESS OF FREE UKRAINIANS
СВІТОВИЙ КОНҐРЕС ВІЛЬНИХ УКРАЇНЦІВ
HUMAN RIGHTS COMMISSION
КОМІСІЯ ПРАВ ЛЮДИНИ
2118-A Bloor Street West Toronto, Ontario, Canada M6S 1M8 Tel.: (416) 762-1108

STATEMENT OF THE HUMAN RIGHTS COMMISSION WORLD CONGRESS OF FREE UKRAINIANS (HRC WCFU) TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE HEARING ON THE COPENHAGEN CONFERENCE ON THE HUMAN DIMENSION, held July 18, 1990.

Submitted by Christina Isajiw, Executive Director.

For the record, I submit the following objectives which were included in the brief of the HRC WCFU to the Copenhagen CHD. This brief was also received by Foreign Affairs Ministers of the 35 signatories as well as their delegation heads to Copenhagen. These objectives constitute our main concerns when assessing the contribution of the Copenhagen Meeting:

The HRC WCFU proposes that Soviet performance in the field of human rights (Principle VII) must be guaranteed by legislation which is going to be institutionalized. It is imperative that the Copenhagen CHD assesses the distinction that exists between that which is unofficial and does not enjoy the increased protection promised by up coming reforms, and that which is now official and which enjoys rights under Soviet law.

In order to promote the "rule of law" in the Soviet Union the HRC WCFU recommends that the Copenhagen CHD review include the following objectives:

1. All political prisoners including those incarcerated in psychiatric institutions be released unconditionally this year.

2. All prisoners of conscience and political prisoners already released should have their convictions quashed. Any and all restrictions leading from their convictions should be lifted.

3. The revision of the USSR Constitution should ensure that it fully reflects international standards on human rights. One role of a body like the New Committee for Constitutional Supervision should be to ensure that the constitutions of the USSR and domestic laws are in conformity with international standards on human rights.

standards on human rights.

4. In order to institutionalize human rights guarantees, the new laws and administrative regulations must be written with precision and clarity, and made known to the public. A process available to the average citizen to assert his rights against the government should recognize the monitoring mechanisms set up under the international treaties on human rights.

Citizens prepared to assert their rights through legal process must be able to do so without fear of governmental retribution, and counsel should be available to provide legal guidance in asserting these rights.

5. An independent judiciary to protect the citizen by an impartial judgement rendered in case of a dispute between an individual and the government is an important component of institutionalized human rights guarantees. The proceedure for appointing judges, their qualifications for appointment and their conditions of tenure should be revised with a view to ensuring the actual independence of the judiciary from the executive and legislature. The decision of courts should be subject to revision only by procedures established in law.

6. Since republican sovereignty has become an acute issue, equal rights and self determination of peoples, Principle VIII of the Helsinki Accords, should be addressed with the purpose of discussing mechanisms of implementing the expressed wishes to exercise this right. The Principle states that "all peoples always have the right, in full freedom to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their poiltical, economic, social and cultural development."

The concept of the "common European home" and a "common legal space" introduced by Mr. Shevardnadze at the Paris meeting, defies the imagination in a system which denies peoples' right to determine their political status and to pursue as they wish, their political, economic, social and cultural development. Denial of this right also poses a threat to a safe and stable Europe.

7. The new law on freedom of conscience should ensure that religious believers fully benefit from all the rights guaranteed in international standards. The registration of a system of belief or religion is inconsistent with the commitments on freedoms of religion as set out in the Helsinki Final Act and the Vienna Document.

The Ukrainian Catholic Church, forcibly liquidated in 1946, with an estimated 3.5 million practicing Ukrainian Catholics in the Soviet Union, is now demanding full legalization. Requirements for registration and other restrictive practices should be carefully reviewed in Copenhagen, with particular emphasis placed on the legalization of the Ukrainian Catholic

Church and the Ukrainian Autocephalous Orthodox Church which was banned in 1930.

8. The proposal submitted in Paris by the United States and the United Kingdom to establish free and contested elections and to establish and maintain their own multi party system, should be vigorously supported in Copenhagen.

9. The proposed abolition of exit permits should be resolved in Copenhagen. The new USSR Law on Exit and Entry should fully comply with their obligations under international law and with their international commitments on the right of everyone to leave any country, including his own, and to return to his country.

The cases of all imprisoned would-be emigrants should be immediately reviewed, especially that of BOHDAN KLYMCHAK.

10. The chain of authority responsible for the control and deployment of the Special Units of Internal Troops of the USSR Ministry of Internal Affairs should be clarified and made public. Steps should be taken to prevent the use of weapons outside the terms of the UN Code of Conduct for Law Enforcement Officials (1979). It should be made clear that the conduct of the troops should at all times conform to the code, particularly regarding the use of force.

11. "Breaking the rules of socialist community" should be removed from the criteria for compulsory psychiatric examination. The special category of confinement for people who are not physically dangerous should be abolished, to exclude the forcible confinement of people solely for the expression of non-violent beliefs. In view of the evidence that psychiatry has been used punitively for political reasons, inmates of psychiatric hospitals should be given the right of judicial appeal against involuntary confinement, with practicat provisions for legal aid and the opportunity to have their confinements reviewed regularly by an independent tribunal.

CONCLUDING DOCUMENT OF THE CHD

The main objective of the Copenhagen CHD was to obtain consensus on a final document. To this end, all opening statements made by the Foreign Affairs Ministers about "unfinished business", the problem of reconciling "practice and commitments", review of implementation, and drawing "attention to the right to self-determination of peoples", were put aside after the first few days of the conference. All energy was directed to the wording of proposals for the final

document. The review of implementation, if any, was limited to a few general statements in the plenaries and bilateral meetings, of which we have no public record.

Overall, the Copenhagen Document is indeed a good one. The wording on mechanisms to ensure free and fair elections and the call for establishing the rule of law through democratic processes, upheld by independent judiciaries, is certainly laudable. For the Ukrainian NGO participants, it was gratifying to see that most objectives expressed in our brief were also concerns of Western delegations, who worked hard to incorporate them in the Copenhagen Document.

Since republican sovereignty has become an acute issue, the need to discuss mechanisms of implementing the expressed wishes of peoples to exercise the right to self-determination was voiced by most NGO participants. We were aware of the fact that this particular conference did not have the mandate to revise the Helsinki Final Act. However, there was time and certainly there was the need to discuss this question with the view of future implementation.

By avoiding the issue of self determination in Copenhagen, Western delegations may have reinforced the erroneous belief that the Helsinki process is detrimental to the aspirations of national freedom and therefore to national rights. Avoiding this issue while detailing mechanisms for implementation of minority rights may also have sent a false symbolic signal that the status quo is being supported, regardless of the expressed wishes of many national groups.

One final point about the Copenhagen Document. Experience has shown that the discrepancy between guaranteed rights in the USSR, even by a Constitution, and the actual honoring of those rights, was always defended or explained by the then current authority. Although we have seen some dramatic changes and heard declaratory condemnations of practices in the past, they are not substantive changes yet, and certainly

not approaching that of democracy and the rule of law. The most vivid example of Moscow's inflexibility toward substantive changes is the recent rejection of the Ukrainian Declaration on State Sovereignty proclaimed on July 16, 1990. Although this declaration goes further in key respects than preceding sovereignty declarations of other republics, it was not a call for independence. Still, it was seen by Moscow as a threat, and Ukraine's call for substantive democratization was rejected, in contradiction to the guidelines set by the newly acclaimed Copenhagen Document. The road to implementation will probably be much longer and more difficult than we would like to admit.

U.S. DELEGATION

On behalf of the HRC WCFU, I would like to commend the U.S. delegation led by Ambassador Max Kampelman, for its contribution to the Copenhagen Document. The strong commitment of the U.S. to the CSCE process has greatly contributed to a document which strengthens the responsibilities of the CSCE human dimension, linking them to a political structure of democracy and the rule of law.

The warmth and interest extended by Deputy Heads of Delegation, Jane Fisher and Paula Dobriansky to Evhen Proniuk and Oles Shevchenko was greatly heartening. The two newly elected parliamentarians from the democratic bloc, were the first-ever NGO representatives from Ukraine to participate in a CSCE conference. Both are former political prisoners and Ukrainian Helsinki Union members.

It was gratifying to have the Congressional delegation attend Copenhagen midway, headed by Congressman Steny Hoyer, Vice-Chairman of the U.S. Delegation and Co-Chairman of the Commission on Security and Cooperation in Europe. Congressman Frank Wolf's representation, during that visit, on behalf of Bohdan Klymchak and other remaining prisoners in Perm VS 130/35 was very important. Special credit should be given to Congressional Advisor, Orest Deychakiwsky, who, along with his many other duties, patiently helped to resolve all NGO problems with courtesy and kindness which has been noted even by European NGO participants.

The forthright stand of the United States throughout this CSCE process and its role as leader in pressing for issues which other Western delegations were not willing to raise, had a great impact on the evolution of this process. It was, therefore, regrettable to see a certain ambiguity and reluctance projected by the U.S. position during this Copenhagen meeting. There was room and certainly a need for a thorough review of implementation in at least one plenary session.

Ambassador Max Kampelman, in his June 11 Plenary Remarks quoted Secretary Baker on continuing to press for "CSCE's high standards". He then said: "Our agenda, therefore, calls for a review of implementation, the subject of these remarks. Our main emphasis in Copenhagen, however, will be forward rather than backward looking." It would have been within a forward looking stance to distinguish the dramatic changes in East Germany, Hungary, Czechoslovakia from those in the USSR and to point out the need to see implementation of long-standing promises from the USSR well before the next CDH in Moscow.

Many delegations showed a distinct uncertainty in approaching the issues of implementation, given the overall changes in the political climate. However, the "democratic revolution we are dramatically experiencing in Europe..." (Plenary Remarks by Ambassador Kampelman, June 29), would not have come about without the foresight of the West, especially the United States, in seing the Helsinki Final Act as a powerful tool in the forging of democratic changes.

Equally, "the forces of freedom, embodied in courageous men and women whose common bond is the aspiration for human dignity..." (Plenary Remarks by Ambassador Kempelman, June 29), would not have had the strength or visibility to have an impact in the evolution of these changes, had it not been for the vigour and constancy of pressure applied by Western signatories, especially the United States.

While pressing for specific, important points to be included in the Copenhagen Document, a strong stand on the overdue, unresolved 'old

business' would not have been backward looking, nor would it have weakened the U.S. position. On the contrary, it would have underscored our resolve in looking forward and our integrity in expecting the implementation of those important points in the near future.

It should be pointed out that the ambiguity and uncertainty had a profound effect on the position of the NGO participants. For the first time in this process, we were left uncertain about our mandate and ambiguous in our approach. Our public encounters and personal discussions with Ambassador Kashelev and other members of the Soviet delegation, however, left no doubt about the strength of their approach.

On the question of the legalization of the Ukrainian Catholic Church Mr. Kashelev was evasive, stating that much more time is required to resolve this 'problem'; when asked publicly about the repression of the Ukrainian Autocephalous Orthodox Church, he claimed no knowledge of any attempts for recognition on the part of the faithful. When asked why the U.S. Congressmen and Canadian Parliamentarians were barred from observing the March elections in Ukraine, he claimed that various criteria would be used in the future when granting observer status to "national elections and other kinds of elections".

On the importance of NGO participation, when asked how we can be assured of freely participating in the Moscow CDH meeting, Mr. Kashelev unabashedly said that organizations will be allowed selected representation, but that we probably will encounter problems with hotel accomodations. Further questions as to the possibility of avoiding such problems by obtaining private invitations were rebuffed. Mr. Kashelev thought there was no need for private invitations since we would have to be registered with the Secretariat. There were other such unequivocal revelations from the USSR delegates.

In the light of changes in Eastern Europe, we have no doubt that CSCE Human Dimension will gain more importance as time goes on. Therefore, the work before us is much more complex now than it was before.

Although the building of a democratic nationhood has to be achieved by the nations within the USSR, nevertheless, without our help and our constant support the Bielorussians, Ukrainians and other nations in the Soviet Union do not stand a chance.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Hearing: Copenhagen CSCE Meeting on the Human Dimension

Statement of Van Z. Krikorian
Director of Government and Legal Affairs
Armenian Assembly of America
122 C Street, NW
Washington, DC

July 18, 1990

The Copenhagen CSCE Conference On the Human Dimension

Van Z. Krikorian, Armenian Assembly of America

Mr. Chairman, I am the Government and Legal Affairs Director of the Armenian Assembly of American, a national non-profit organization headquartered in Washington to represent the views of the Armenian-American community.

At the invitation of the Danish Refugee Council, I participated in the CSCE Conference on the Human Dimension Parallel Activities for non-governmental organizations ("NGOs") which took place in June 1990 in Copenhagen. Specifically, I made a presentation entitled "Nationalities and Refugees -- Some Examples of the Armenian Experience" at the June 11-13 NGO conference "Refugees in the European House." (A copy of my presentation is attached to this Statement.)

In addition, I was present in Copenhagen from June 9 to June 19, where I attended other NGO parallel activities as well as the CSCE Conference on the Human Dimension. Based on my own experience, the access of NGOs to the official proceedings, the NGO parallel activities themselves, and the overall impact of NGOs on the official proceedings were outstanding.

Without the restrictions applicable to government delegations and based on their various first-hand experiences dealing with international human rights and humanitarian issues, NGOs play a leading role in improving the human condition, thereby improving peace and security. Accordingly, the CSCE and its Secretariat's consideration to NGOs was appropriate and greatly appreciated.

In light of the Chairman's Statement annexed to the concluding document, it is clear that the CSCE, in turn, appreciated NGO participation. The Chairman's Statement reflects the agreement of the CSCE countries to "follow and build upon [the practices of openness and access] at forthcoming meetings of the Conference on the Human Dimension."

In fact, the only disappointing experience I encountered as an NGO representative was the Turkish delegation's refusal to meet, even rejecting a formal request by the Secretariat. Otherwise, I found that almost all the other official CSCE delegations were accessible and reasonably willing to factor NGO recommendations into their positions. The United States delegation was especially helpful and I would like to publicly acknowledge the assistance which the following individuals rendered both before and during the Conference in Copenhagen: Orest Deychak, John Finerty, Michael Oches, Michael Amitay, Paula Dobriansky, Mary Sue Hafner and Aubrey Carlson.

With respect to the Copenhagen Meeting Concluding Document, there is no question that substantial, positive progress was made in the subjects addressed: the rule of law and free elections; human rights and fundamental freedoms, including torture prevention and states of emergency; democratic values and institutions; national minorities; and implementation of commitments made in the CSCE Human Dimension process. From the Armenian experience, however, it is clear that two CSCE nations, Turkey and the Soviet Union, observe their human rights obligations in the breach instead of in the practice. Turkey continues to persecute the Armenian minority, destroy Armenian churches and historical monuments marking the 3,000-year presence of Armenians in modern eastern Turkey, and deny the World War I-era Armenian genocide through censorship and intimidation. The Soviet Union not only denies the basic right of self-determination to the over eighty-percent Armenian majority of Nagorno-Karabakh, but also countenances the year-long Azerbaijani economic blockade of Armenia, and cooperates with efforts to depopulate Armenian towns and villages by force. This situation is exacerbated by the Soviet government's prohibition of Western media access to Armenia and Azerbaijan and interference with all outside access (including humanitarian efforts) to Nagorno-Karabakh. At the same time, official Soviet news accounts of incidents of armed conflict allegedly instigated by Armenians and the overall situation are sharply and credibly refuted by those first-hand observers who happen to be in the relevant areas. In addition, Armenian refugees forcibly expelled from Azerbaijan are in limbo, without homes, jobs, any prospect of safe return to their homes and possessions, or fair compensation.

In sum, the Soviet Union and Turkey have not complied with the letter or the spirit of the human rights provisions found in the Helsinki Accords and its progeny as regards Armenians. Although both countries agreed to the Copenhagen Meeting Concluding Document, they will have to make substantial changes to comply with its provisions. If the past is a guide to the future, those changes will not be made, human rights violations will continue unabated, and the Copenhagen Document will be a dead-letter agreement. Fortunately, there will be an opportunity to publicly review implementation at the next CSCE Conference on the Human Dimension to be held in Moscow in September 1991, and at other bilateral and multilateral meetings before September 1991. The Armenian Assembly and the entire Armenian-American community of nearly one million appreciate the United States' efforts to promote improved human rights conditions around the world and hopes that the United States government will redouble these efforts in the post-Cold War period.

Thank you very much.

Nationalities and Refugees -- Some Examples of the Armenian Experience

Remarks to the June 11-13 Non-Governmental Organization Conference "Refugees in the European House" Parallel to the CSCE Conference on the Human Dimension in Copenhagen

By Van Z. Krikorian, Esquire
Armenian Assembly of America
Director, Government and Legal Affairs

According to Armenian church records, approximately two million one hundred thousand Armenians lived in Ottoman Turkey in 1912. By 1923, less than one hundred thousand Armenians were left on what became the Republic of Turkey, on the lands they and their ancestors inhabited for over three thousand years. Best estimates are that one and a half million were massacred or forcibly converted to Islam. Five hundred thousand became refugees, scattered all over the world. Of course, the massacres beginning in 1915 were not unprecedented. Between 1894 and 1896, the Ottoman Turks massacred approximately three hundred thousand Armenians, and in 1909, the government again resorted to a minority policy using massacres, killing approximately thirty thousand.

Thus, when Armenians get together, they traditionally do not to drink to each other's health, to cheers, or skol. Instead, they find themselves hoping for one another's "survival." Dispersed throughout Europe, Australia, the Americas, the Middle East, parts of Africa, and parts of Asia, with Soviet Armenia as the last vestige of the Armenian homeland, Armenians have acquired a considerable range of first-hand experience in both minority and refugee issues. Surviving as refugees from the Turkish deportations, we now have experience with being uprooted and becoming refugees again as well as with establishing permanent homes in host countries. In those countries where we have found permanent, secure homes we, in turn, take in refugees and have acquired experience in resettling new refugees. For example, the Armenian community in the United States currently absorbs Armenians and others fleeing their home countries, and Soviet Armenia is one of the few places in the region which absorbs Kurds. Indeed, Soviet Armenia has gone beyond providing a safe home for Kurds to maintaining a longstanding academic facility for Kurdish studies. In addition, Armenia hosts Kurdish publications as well as radio and cultural programs.

At the same time, in places like Iran, Lebanon, the Soviet Union, Syria, Turkey, Iraq, and others, Armenians have encountered problems which only reinforce the need to hope for survival. Today, I would like to briefly outline the situation of Armenians in Iran, the Soviet Union, Lebanon, and Turkey as contrasts in circumstances which threaten our communities' survival and have resulted in flight. Although these circumstances differ from country to country, it is clear that they all point to major inadequacies in the international political and legal framework covering minority rights. There is no question that a new convention, a

convention whose letter minorities could enforce and whose letter national governments could be compelled to respect, is needed. Otherwise, internal conflicts and government persecution in which minorities historically bear the heaviest burdens and eventually produce refugee flows will continue.

In Iran, the status of Armenians, Baha'is, Jews, Zoroastrians, and other non-Moslem minorities has been precarious since the Islamic revolution of 1979. The Armenian presence in Iran goes back centuries, and those who escaped to Iran from Turkey earlier this century helped to build a healthy Armenian community and a strong Iranian economy. Indeed, Armenian language, education, religion and culture grew, and as individuals and as a community, Armenians distinguished themselves in their achievements. After the revolution, Armenians continue to be recognized as a Christian minority, but are subjected to pervasive discrimination and abuse as an "unclean" and "heathen" race.

Persecution has taken various forms: confiscation of businesses; denial of the right to work; suppression of language use; interference with educational institutions; violence against women; discriminatory and more dangerous assignments in the armed forces; arbitrary, incommunicado detention; and imprisonment without charge followed by torture. Tens of thousands of Armenians have fled such conditions, many of them finding permanent asylum in Europe, North America, and Australia. Approximately 160,000 remain in Iran, and although there are signs that their persecution is decreasing, significant amounts of Armenians from Iran continue to flee and seek asylum in the West.

With the end of the Iran-Iraq war, the West hopes that many refugees from Iran may return and that the outbound flow of refugees will decrease, but the end of the war has not brought an end to the government's persecution of minorities. In fact, minorities' reasons for flight from Iran are correlated to the policies and practices of the governing Islamic regime. Until those policies and practices allow minorities their human rights, refugees, in the classic sense of the Geneva convention, will continue to seek asylum, and the West must respond by absorbing these refugees and by pressing for changed circumstances in Iran.

In Lebanon, like Iran, the Armenian community also grew and prospered for years until a disrupting event made a fundamental change. Unlike the experience in Iran, however, the event was a devastating civil war, not a change in government. Before 1975, over 250,000 Armenians lived in Lebanon, but today less than 100,000 remain.

When the war began, the Armenian community declared its neutrality; as a result, it was literally caught in the crossfire of the warring forces. Instead of subsiding over the years, moreover, the crossfire has intensified and Armenians have increasingly suffered. Dozens of Armenians have been killed in recent months, and Armenian churches and other community buildings are being seriously damaged -- forcing people to flee for their lives. Nevertheless, the people who have left this situation are not generally considered refugees under the Geneva Convention.

Yet the situation of many Lebanese-Armenians presents a compelling humanitarian issue. Until peace returns to Lebanon, and Armenians forced to flee can safely return to their homes, the West must face the humanitarian challenge of providing a temporary haven by using provisions for student, business, tourist or other forms of visas.

Within the multi-ethnic Soviet Union, Armenians have faced a variety of living conditions. Three million three hundred thousand Armenians live in Soviet Armenia, over one million Armenians live in the Soviet Union outside Soviet Armenia, and each of their communities faces unique challenges to its survival. But, the Nagorno-Karabakh situation has been the most explosive recently, and I will focus on that experience.

Nagorno-Karabakh, or Artsakh in Armenian, is historically, geographically, and demographically Armenian. The Armenian population of over 160,000 makes up over eighty percent of this distinct territory. In 1921, however, Stalin managed to grant jurisdiction over Nagorno-Karabakh to Soviet Azerbaijan in an agreement with Turkey. Then in 1923, Stalin arranged for an artificial six kilometer land corridor to divide the borders of Armenia and Nagorno-Karabakh. Since Soviet Azerbaijan took jurisdiction over Nagorno-Karabakh, extraordinarily harsh conditions have been imposed on the Armenian majority. Profits from Armenian enterprises were siphoned off to Azerbaijanis, funds allocated for economic development in Armenian areas never found their way to Armenians, Armenian language and culture were suppressed, and a multitude of other forms of persecution were leveled at the Armenians. This "tyranny of the minority" presented a situation analagous to South Africa, and like South Africa emphasizes the need to respect the right of self-determination. For decades, Armenians petitioned the central government in Moscow and the Soviet Azerbaijani government in Baku for relief, but received none. At the same time, Azerbaijan changed the demographics of another historically Armenian region south of Soviet Armenia, Nakichevan, from over ninety percent Armenian to less than five percent. Observing this transformation, the Armenians of Nagorno-Karabakh, then, had and continue to have a serious fear for their community's existence.

The Soviet Union's pronounced policies of glasnost and perestroika created some hope for the Armenians of Nagorno-Karabakh. In 1987, the movement for self-determination in Nagorno-Karabakh picked up new force with another petition for relief signed by almost the entire adult population. In February 1988, massive demonstrations took place, not only in Nagorno-Karabakh, but also in Armenia, where approximately one million people peacefully protested in support of fundamental human rights for the Armenians in Nagorno-Karabakh.

In response, shortly thereafter the Azerbaijanis countered with pogroms against Armenians in the city of Sumgait. The perpetrators went unpunished and the violence against not only Armenians, but also Russians and Jews, living in Azerbaijan continued. Outside

Nagorno-Karabakh, approximately 360,000 Armenians lived in Azerbaijan, many of whose families had been there for generations. In the fall of 1988, tens of thousands of Armenians living in Azerbaijan were forced to vacate their homes. These refugees fled to Armenia and became some of the most tragic victims of the December 7, 1988 earthquake. This earthquake leveled almost forty percent of Armenia, leaving over 25,000 dead. Despite this human tragedy, Azerbaijanis continued using violence to silence Armenians' calls for self-determination in Nagorno-Karabakh. The Soviet Union's central government distinguished itself here by permitting the Azerbaijani campaign of violence to continue. In August 1989, Azerbaijan imposed a rail blockade on Armenia which continues to this day. Eighty-five percent of Armenia's supplies are supposed to come by rail through Azerbaijan, and the blockade has not only choked off regularly-scheduled supply deliveries but also crippled international earthquake rehabilitation efforts.

In January 1989, the central government established a special administration outside Azerbaijan's control to govern Nagorno-Karabakh, but eliminated this form of governance in November 1989 under Azerbaijani pressure. In January 1990, another round of anti-Armenian pogroms took place in Baku, and the twenty to thirty thousand Armenians still living in Azerbaijan had to be evacuated. Soviet troops eventually moved into Baku with the stated purpose of protecting the Armenians, but most objective observers noted that the forces interceded only after the damage had been done and that the forces were more interested in preventing the overthrow of the communist government than protecting Armenians. Interspersed between these major events, battles between Armenians and Azerbaijanis along the borders and in Nagorno-Karabakh escalated as the central government refused to address the issues, did not establish a dialogue among the parties, and failed to provide a legal forum in which disputes could be peacefully and effectively resolved.

In Armenia today, there are over 500,000 people still homeless as a result of the earthquake and approximately 300,000 refugees who were forced out of Azerbaijan. With the economic blockade continuing to cripple rehabilitation efforts in Armenia, it will only be a matter of time before the homeless and the refugees are forced to leave. We know that in Moscow approximately 20,000 Armenians are awaiting entrance to the United Sates as refugees and thousands more are struggling to exist on the streets until they find refuge elsewhere. It is clear that the majority who have fled Azerbaijan would still wish to resettle in Armenia. In the face of all this, however, the Soviet government refuses to control Azerbaijan or restore order and the rule of law. The United States and other countries have responded to the humanitarian needs created by the earthquake, and the Congress has recently recommended that five million dollars of federal aid be allocated to resettle Armenian refugees from Azerbaijan in and around Armenia. Until nationality conflicts can be resolved peacefully, this type of intermediate aid will become increasingly necessary to stem refugee movements to the West.

As a final example of the twentieth century Armenian experience, in Turkey, Armenians have faced the legacy and the drive to finish the 1915-1923 genocide at almost every level of society and government. There, the Armenian nation, once sovereign over parts of Eastern Turkey, has been reduced to approximately fifty thousand, most of whom live in and around Istanbul. For decades, the historic Armenian homeland has been methodically and continually emptied of Armenians, without any opportunities for resettlement or reconciliation. In 1912, well over two thousand Armenian churches and religious monuments stood in Turkey; many of these structures are centuries old, valuable architectural endeavors. Yet today, less than two hundred survive. Despite repeated offers from Armenian groups and the international community to rehabilitate and maintain these treasures, the Turkish government refuses access and continues to demolish and allow others to demolish these structures.

Indeed, the government shamelessly expropriates and destroys not only the Armenian community's physical assets but also the community's living presence. During the 1950s, the government forced Armenians to change their names to Turkish. For decades, the government has obstructed and continues to obstruct Armenian children from entering Armenian schools. In those schools, moreover, the government forbids Armenians from teaching history and geography -- instead it imposes government sanctioned teachers for those subjects. In addition, the government strictly controls the principals of Armenian schools and imposes its own officials as deputy principals to ensure that the government's will is done.

Furthermore, the Armenian church is forbidden from training clergy, and the government has precluded effective Armenian control of the community's own religious institutions by denying the right to elect replacements for vacancies in various councils. This general problem has manifested itself most dramatically in the current need to replace Patriarch Shnork Kalustian who died recently. The government has publicly and officially interceded in the election by imposing its own rules on who may be elected. By requiring the age, place of birth, citizenship, and several other factors to meet new standards, the government has effectively narrowed the field of candidates to one person, a bishop presumably acceptable to the government. This type of government interference not only violates internationally protected rights to freedom of religion, but also infringes on a minority community's ability to survive, its freedom of association. When a government continually imposes cumulative burdens on a community, for example on its religious, educational, and social institutions, it is only a matter of time before individual members of that community flee to other countries. This is the phenomenon we have witnessed for Armenians in Turkey.

When discrimination in business and daily life is combined with destructive burdens on community institutions, moreover, the challenges to minority survival increase. In December 1989, the Armenians of Turkey presented President Turgut Ozal with a conservative list of some

of the community's problems. These problems include the following: since 1967, Armenian philanthropic organizations have been deprived of the right to buy or to receive as donations any immovable properties; in the 1970s a decision was taken, retroactive to 1936, declaring that minority communities had no right to acquire immovable properties, and all immovable property obtained by the community since 1936 has been returned to its former owners; it is prohibited to erect new buildings on property owned by the Armenian community or to repair existing buildings on such properties; since 1972, an additional 5 percent tax has been levied on all properties owned by the Armenian community as a "book inspection fee;" since 1986, an income tax has been levied on all property owned by the Armenian community; and the identity cards of citizens states only their religion (i.e. Muslim, Christian, etc.), but not their sect (i.e. Armenian, Catholic, Assyrian, etc.). As a result the national ancestry of Armenian children, especially those coming from the provinces, is denied.

In addition, government denial and censorship of the history surrounding the 1915-1923 genocide has created and maintained anti-Armenian sentiments throughout the Turkish population -- flames which politicians in turn can fan to obtain domestic, chauvinistic support. For three generations, the government has inculcated the population with the false belief that nothing even remotely like a genocide happened to the Armenians, and if it did the Armenians deserved it. Massive amounts of documentation from eyewitnesses and historians substantiating the extermination of the Armenian race are not even available in Turkey; accordingly, members of Turkish society have grown up with a distorted view of history and the Armenians. Thus, until Armenian terrorism ended in 1983, it made no difference that Armenians in Turkey as well as the Armenian Assembly and other mainstream Armenian-American groups condemned it. Turkish society was conditioned to blame and take its frustrations out on innocent Armenians. Similarly, in January 1990, when the Azerbaijanis carried out pogroms against innocent Armenians in Baku as a response to the democratic movement in Nagorno-Karabakh and Soviet forces intervened, Turkish protesters moved against the Armenian patriarchate in Instanbul in a bloody confrontation.

The Turkish government's denial campaign surfaced most recently in the United States Congress. There, a Senate effort to establish April 24, 1990 as an official day of remembrance of the seventy-fifth anniversary of the Armenian genocide was blocked by a procedural tactic precluding full Senate consideration of the proposal. The Republic of Turkey held United States businesses, military bases, and other national interests hostage to enforce this procedural tactic; in addition, Turkey paid millions of dollars to lobbyists and pressed Israel and American Jews to join its denial campaign. Ultimately, President Bush took the matter out of Congress's hands and issued a Presidential statement commemorating April 24, 1990, but the Congressional battle established the lengths to which the Turkish government will go to deny genocide.

In conclusion, the Armenian experiences I have briefly outlined are unique and present contrasts to other minorities' experiences as well as to each another. But, all these experiences highlight the dramatic

inadequacies in the existing framework of minority rights and the need to effectively address these inadequacies in a convention or an amendment to an existing convention.

Minorities flee their homes for different reasons. Armenians have left home countries as a result of swift, comprehensive changes in government policy, such as in Iran, and as a result of a government's ineffectiveness in the face of chaos and a sudden civil war, such as in Lebanon. In some situations, government ineffectiveness in protecting one nationality from another which leads to refugee flows is by the government's choice, as in the Soviet government's regarding Azerbaijan, and, at other points, a country may be intentionally pursuing genocidal policies in such a way that the Genocide Convention may not obviously apply but the policies nevertheless result in the destruction of a protected group, such as in Turkey.

From these minority problems and the concomitant refugee flows, it is clear that minorities, or nationalities, have insufficient substantive rights to ensure their existence; more importantly, they do not have effective procedural means to enforce those internationally protected substantive rights that already exist. The mere existence of such procedures would help ensure respect for rights and keep minorities in place as their cases wound through the mechanism. While history has taught us that decency and fairness cannot be legislated into everyone's behavior, we also know that legislating and enforcing human and civil rights standards makes a significant difference in eliminating rights infringements. Such legislation and enforcement is long overdue in the field of international protection of minority rights, and the need for a new and effective convention is becoming increasingly clear. Of course, a new convention alone cannot stop all refugee flows, but with a strong framework for addressing minority problems, communities' options would not be so easily reduced to "continued abuse or flight." Thank you.

BEYOND WAR

REPORT TO THE US CSCE COMMISSION

CSCE PARALLEL NGO CONFERENCE ON THE HUMAN DIMENSION

COPENHAGEN, JUNE 5 - 29, 1990

Beyond War
Beyond War is a not-for-profit 501-c(3) Corporation with headquarters in Palo Alto, California, active in 40 states within the USA and in 6 other countries. About 15,000 people receive the monthly newsletter, "On Beyond War", worldwide.

The purpose of Beyond War is to work together with others to build a secure and sustainable future. To this end a delegation was sent to the CSCE Conference on the Human Dimension to present the ***Helsinki 2000 Appeal*** described below.

Delegation to Copenhagen
The Beyond War delegation at Copenhagen consisted of five people from the USA, four from the Federal Republic of Germany, two from Canada, and one each from Switzerland and Denmark.

Helsinki 2000 Appeal
A working document, titled ***Helsinki 2000 Appeal*** was presented at the Copenhagen NGO conference by Beyond War. This document recognizes militarization as a violation of human rights, and calls for demilitarization in Europe, and reinvestment of manpower and financial resources in human and environmental needs. Specifically, five points are presented, each to be realized by the year 2000:

1. **Ban international arms sales.**
   Fact: Arms sales by CSCE Nations account for 89% of international weapons sales.
2. **Remove all troops from foreign soil.**
   Fact: More that one million CSCE troops are stationed on foreign soil.
3. **Cease all covert and paramilitary intervention.**
   Fact: Annual expenditures supporting the 2 million intelligence operatives worldwide are estimated to be more than $20,000,000,000
4. **Prepare a plan and a deadline for the elimination of National standing armed forces.**
   Fact: Military budgets supporting the 11 million CSCE troops exceed $700,000,000,000 per year.
5. **Reinvest in human and environmental needs.**
   Fact: **One Billion** human beings have inadequate food, housing and health care, and environmental crises threaten life support systems worldwide.

Preconference Support from the US CSCE Commission
Representatives of Beyond War met with Ambassador Wise and his staff three times prior to the conference. These meetings were helpful and informative. On the final meeting, the ***Helsinki 2000 Appeal*** was presented, and the Commission staff made an "off the record" response and evaluation. A frank discussion followed, clarifying areas where the appeal differed from established US policies.

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State Department Briefing
Three representatives of Beyond War attended the CSCE briefing by the State Department on May 10, 1990. In response to a question posing the possibility of point 1 of the Appeal, Head of Delegation Max Kampelman responded that the CSCE Human Dimension conference should be focused on the underlying causes of war, and not the mechanics of disarmament - in other words, the strong link perceived by Beyond War between militarization and human rights was seen by the State Department as being outside the mandate of the conference. We believe this interpretation to be restrictive, and not in the best interest of assuring fundamental human rights.

The Danish Human Rights Commission
As official host to the Parallel NGO conference in Copenhagen, the Danish Human Rights Commission provided the only contact for communications between the NGO's. They were of good spirit, but seriously understaffed and underfunded for the task. We suggest that all nations contribute funding for the parallel NGO conference in Moscow in 1991.

At the suggestion of Beyond War, a concluding meeting of NGO's was called and a concluding report issued.

Governmental Conference
The governmental conference was run with dignity and efficiency. It was a pleasure to be able to participate in this important international event. The Danish hosts should be proud of their efforts.

Accessibility
The process of accessing members of the governmental delegations from CSCE countries worked smoothly. As US citizens we were able to arrange meetings with most of the delegations - with the exception of some small understaffed delegations.

Contacting the US Delegation
Communications with the US Governmental Delegation were slow and difficult. By contrast, the Canadian delegation had a meeting at the beginning of the conference for all Canadian NGO's attending, where they were briefed and invited to share their agendas with Foreign Minister Joe Clark. The Soviet delegation worked closely with their NGO's throughout the conference. The US would do well to follow these examples.

Response to *Helsinki 2000 Appeal*
Beyond War delegates requested interviews with representatives of each CSCE Nation. All responses were 'off the record', of course, and represented only the opinions of the individuals being interviewed. Results are tabulated as national preferences - for example, 5 CSCE nations said yes to banning international weapons sales, 6 expressed conditional agreement on this issue, etc. The results of these interviews are summarized below.

#	Issue	Yes	Conditional Agreement	Long Term Possibility	No	No Comment
1.	Ban international weapons sales	5	6	4	3	8
2.	Remove all troops from foreign soil	14	2	0	3	6
3.	Cease covert and paramilitary intervention	14	0	1	0	10
4.	Abolish standing National armed forces	8	1	4	4	10
5.	Reinvest in human and environmental needs	16	0	0	0	11

Eastern European nations and unaligned countries were most supportive, and NATO members tended to be most critical. Major weapons suppliers were most critical of point 1. Major issues of concern were ethnic and minority unrest, and a clarification and development of the role of the UN as a peacekeeping force.

Clearly, there is substantial support for demilitarization actions far exceeding any on the table at the present time. Support for reinvestment in human and environmental needs was nearly unanimous.

Nongovernmental Parallel Conference

The non-governmental parallel conference mirrored the intensity and variety of human rights concerns throughout the CSCE nations. Due to the very narrow agendas of many of the groups, it was difficult to build a common concern. The Beyond War ***Helsinki 2000 Appeal*** was described by many as the most global and long term in its approach to human rights.

Concluding NGO document

The concluding document produced by the Danish Human Rights Commission is important in that it outlines common suggestions for improving the Parallel Non-governmental Conference for Moscow in 1991. Although difficult to achieve, the concluding document would be of greater significance if it reflected the priorities of the many Human Rights Organizations attending the Conference, and if it were input directly into the Governmental conference.

Human Rights, Economics and Disarmament

Part of the genius of the Helsinki process is its recognition that human rights are intimately connected with economic and military issues. However, the division of issues into three 'baskets' within the CSCE process makes a serious treatment of this interrelationship difficult. Since NGO input is not supported in other arms control negotiations, the CSCE Conference on the Human Dimension remains the venue best suited for this promising interdisciplinary approach.

Summary of Recommendations

1. **There is substantial support for rapid demilitarization and reinvestment in human and environmental needs.**
2. **A coalition of NGO's and a concluding NGO document at the Moscow CSCE conference in 1991 would enhance the prospects of human rights progress.**
3. **Greater linkage and communication should be provided between the NGO and Governmental conferences.**
4. **The NGO conferences should be adequately funded from international sources.**

Submitted by the Beyond War Helsinki 2000 Appeal Executive committee:
Florence Beier Rolf Beier Barbara Busse Bill Busse Adelgund Heinemann Klaus Heinemann
Barbara Kyser Ed Kyser Marcia Pagels Colin Schmidt

APPENDIX IV

STATEMENTS DELIVERED AT THE COPENHAGEN MEETING BY THE U.S. DELEGATION

U.S. DEPARTMENT OF STATE
Office of the Assistant Secretary/Spokesman

For Release Upon Delivery
Expected at 11:10 am Local Time
5:10 am EDT, Wednesday, June 6, 1990

REMARKS BY
SECRETARY OF STATE JAMES A. BAKER, III
AT THE CSCE CONFERENCE ON THE HUMAN DIMENSION

Copenhagen, Denmark
June 6, 1990

CSCE: THE CONSCIENCE OF THE CONTINENT

We are present at the creation of a new age of Europe.

It is a time of discussion of new architectures, councils, committees, confederations, and common houses.

These are, no doubt, weighty matters.

But all these deliberations of statesmen and diplomats, scholars and lawgivers, will amount to nothing if they forget a basic premise.

This premise is that "all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these, are Life, Liberty, and the pursuit of Happiness."

It is "to secure these rights [that] Governments are instituted among them, deriving their just powers from the consent of the governed."

That is why we are here.

Human Rights is a modern phrase. But it recalls the words -- and the spirit -- of committed men and women throughout Europe's history.

The codes of King Canute.

The Magna Carta.

The Bill of Rights.

The Declaration on the Rights of Man.

The Universal Declaration of Human Rights.

The Helsinki Final Act.

At times over the years these words could not be heard because of yelling crowds, prison gates, and secret police. At times these words have been burned and banned.

But they kept returning on the lips of successor generations.

They could not be destroyed -- because they are in the soul of man.

The very ideas that so stirred Jefferson and Montesquieu resonate today in the words of Havel and Geremek. They echo in our collective historical memory, and they illuminate our path to the future.

Time and again, we have seen how government's contempt for human dignity led to suffering on an unprecedented scale. Each generation, including ours, has learned what our forefathers discovered -- that it is to our collective peril that we close our eyes to the suffering inflicted by intolerance and oppression.

Thomas Jefferson put it this way two hundred years ago: We must swear "upon the altar of God, eternal hostility against every form of tyranny over the mind of man."

And so, today, we, representatives of the people of 35 nations, must rededicate ourselves to the cause of human rights; we must reaffirm the democratic values that are our legacy from the past.

We are now closer than ever to realizing CSCE's long-cherished vision of a Europe whole and free. But as we approach our work, as we consider grand designs and institutional concepts, it is useful to find our bearings by recalling another gathering, fifteen years ago. Then, the peoples of Central and Eastern Europe still lived in an artificially divided Europe, isolated behind a wall -- a dark curtain, through which the light of world concern reached but dimly.

It was at that dark time, that a band of intrepid men and women in a small flat in Moscow risked their freedom to form the first Helsinki monitoring group. They rejected the darkness of tyranny, and they pledged to bring the denial of human rights to light. Their leader, Yuri Orlov, who is with us now, launched the Helsinki movement with a toast that was as sardonic as it was defiant: "To the success of our hopeless cause!"

Dr. Orlov and his colleagues paid dearly for that pledge. One by one, they were persecuted, arrested, exiled. They all suffered. Some of them died. Yet inspired by their selfless example, one by one, others throughout the Soviet Union and Central and Eastern Europe took up the spirit of Helsinki. And one by one, these courageous men and women breathed life into the Helsinki process. They infused the words with meaning.

Before long, these words inspired acts of bravery that dictators and one party states could never comprehend.

In Katowice, in Poland, democratic activists considered the Final Act to be so important that they braved the blows of security forces to distribute copies of it to their neighbors. And it was to the Madrid Meeting of Helsinki signatory states that exiled Solidarity leaders appealed in the aftermath of martial law, proclaiming that there can be no social peace without social justice.

Time and again, Czechoslovakia's Charter '77 cited the Helsinki Final Act in defense of their unjustly persecuted countrymen. They were persecuted for "living in truth," for accepting the praiseworthy folly, as Vaclav Havel put it, of believing their words and ideals could make a difference. Now, the Charter's original members -- President Havel and Foreign Minister Dienstbier to name only two -- are leading the new Czech and Slovak Republic to democracy.

When Bucharest's beautiful old buildings were bulldozed and entire villages were threatened by the whim of a dictator, people turned to the CSCE human rights mechanism to spare further destruction of Romania's priceless cultural heritage.

Just before the Berlin Wall fell, scores of East German refugees sought to transit through Hungary to freedom. The reforming Hungarian government, confronted with demands from East German authorities to place old rules in the way of new freedoms, turned to a different set of rules. The Hungarians cited their CSCE obligations to justify the crucial act of safe passage.

And it was the holding in Sofia of a CSCE environmental meeting that coalesced the democratic opposition, precipitating the movement that has brought unprecedented change to Bulgaria.

As we leave the Cold War behind us, we confront again many age-old national, religious, and ethnic conflicts that have so sorrowed our common civilization. CSCE, NATO, the EC and other democratic institutions of Europe must now play a greater part in deepening and broadening European unity. We must ensure that these organizations continue to complement and reinforce one another.

NATO will continue to serve as the indispensable guarantor of peace -- and therefore the ultimate guardian of democracy and prosperity. The Alliance will work to lock in stabilizing arms control agreements, to reshape its defense strategy to meet fundamentally changed conditions, and to build bridges of political cooperation to the newly emerging democracies of the East. As President Bush stressed with President Gorbachev at last week's Washington Summit, we believe NATO will remain a cornerstone of both military security and political legitimacy in the new Europe.

Working in concert, the G-24, the OECD, the European Community, the EBRD, the Council of Europe, the United States, and Canada can foster an inclusive European order, involving Central and Eastern European nations and the Soviet Union in the new Europe by assisting market-based reform and the building of democratic institutions.

The prospects for the fulfillment and protection of human rights have never been greater. It is a time for CSCE to take on additional responsibilities -- but never at the price of forgeting its fundamental purposes: If CSCE is to help build a new Europe, a Europe different from all those empires and regimes that rose and fell, it must build from the liberty of Man.

Three challenges lie before us:

First, we must ensure that the freedoms so recently won are rooted in societies governed by the rule of law and the consent of the governed.

Second, we must ensure that all peoples of Europe may know the prosperity that comes from economic liberty and competitive markets.

And third, we must ensure that we are not drawn into either inadvertent conflict or a replay of the disputes that preceded the Cold War.

CSCE is the one forum where our nations can meet on common ground to channel our political will toward meeting these challenges for the entire continent. CSCE's three baskets are uniquely suited to today's political, economic, and security challenges. Though it lacks military or economic power, CSCE can resonate with a powerful and irresistible voice. It can speak to Europe's collective concerns and interests. It can become, if you will, "the conscience of the continent."

Deepening our Consensus on Human Rights

Today, I would like to share with you our views on how a strengthened CSCE can meet the first challenge we face: forging a deepened consensus on human rights, political legitimacy through free elections, and the rule of law.

We are all familiar with the Danish author Hans Christian Andersen's tale, "The Emperor's New Clothes." Though written over a century ago, it is an ageless parable. In it, imperious authority cloaks itself in attractive falsehoods, deluding itself in the process. But, in the end, the naked truth is revealed by a small, insistent voice that refuses to be hushed. It grows into a popular cry.

1989 was not kind to the Stalinist dictators who cloaked themselves with false authority and ignored the insistent voice and will of the people. Now in Central and Eastern Europe, the emerging democracies are working to construct legitimate and enduring political orders. CSCE can help by deepening our consensus on the key building blocks of freedom -- genuine elections, political pluralism, and the rule of law.

The new social compacts between government and governed now being written in Eastern and Central Europe must be constantly renewed through free elections. As we all know well, democracy -- like CSCE -- is a process. Democracy evolves through give-and-take, consensus-building, and compromise. It thrives on tolerance, where the political will of the majority does not nullify the fundamental rights of the minority.

The free elections proposal that the United Kingdom and the United States tabled last year in Paris has gathered strength from the dramatic events of last fall and the new elections of this spring. In my travels to Eastern and Central Europe, democratic activists enthusiastically supported the proposal. They also emphasized the importance they attach to the presence of international observers as their countries undergo the new experience of elections. In February, in Prague, I called upon the CSCE member states to send observer delegations to the elections in Eastern and Central Europe. And I am pleased to note that many states have joined us in doing so.

Our revised proposal reflects our experience observing the elections -- not only on voting day but also during the electoral campaign. We welcome the strong support that our text is receiving and will work to see it adopted here in Copenhagen. And when the 35 consider proposals to institutionalize CSCE, I urge all to start with mechanisms to ensure that governments are freely chosen by the people.

But free and fair elections alone do not ensure that the new democracies will succeed. The irreducible condition of successful democracy, beyond legitimate elections, is clear: fundamental individual freedoms must be guaranteed by restraints on state power. Where these guarantees are absent, there is no true democracy. Indeed, where they are absent, the risk of dictatorship always looms.

For this reason, the watchword of reformers everywhere is the rule of law. As the late Andrei Sakharov said, democratic change must be accomplished through democratic methods -- peacefully, through legal processes.

But what do we really mean by rule of law? The law, after all, has been used as a tool of repression in societies where rulers make the rules to serve themselves, not the people. As President Bush stressed last month in a speech at the University of South Carolina, the rule of law means the supremacy of laws written through democratic processes, applied in an equal fashion, and upheld by independent judiciaries.

Therefore, we strongly support efforts at this meeting to set forth for CSCE the elements of a democratic society operating under the rule of law. In this regard, President Bush told President Gorbachev how highly we value Soviet efforts to institutionalize the rule of law, glasnost, and democratization in the USSR.

To this same end, we are engaging in cooperative technical efforts to strengthen democratic political cultures and institutions in Central and Eastern Europe.

A closing thought on our human rights agenda: As we turn to the ambitious task of consolidating democracy in entire societies, we must not lose sight of individual liberty. For democracy begins and ends with the citizen and his or her rights. Despite the dramatic gains in human rights that we witness today, men and women in some participating states are still made to suffer because they want to be free, still are targets of intolerance, still cannot emigrate, still may not exercise their full Helsinki rights. We must continue to press until CSCE's high standards of human rights prevail throughout Europe, until they extend to every individual.

Before turning to ways we might strengthen CSCE, I would like to say a word about Lithuania, Latvia, and Estonia. At the Washington Summit, President Bush conveyed our deep misgivings about Soviet policy toward Baltic independence. He stressed again our view that a systematic dialogue must be initiated so that the aspirations of the Baltic peoples can be achieved.

A New Consensus on Strengthening the CSCE Process

The scope for meaningful cooperation in CSCE is widening, and our consensus is deepening in CSCE's human dimension. But in order to have CSCE fulfill its potential in this important area and in CSCE's other baskets, the Helsinki process itself must be enhanced.

I recently shared with colleagues six ideas on how we can work together to improve CSCE as a process by reinforcing CSCE's organization.

First, the United States favors regular consultations among the signatory states. Ministers may wish to meet at least once a year, and their senior officials should convene at least twice a year. Such exchanges will invigorate the CSCE as a forum for high-level political dialogue.

Second, we support the holding of CSCE review conferences on a more frequent basis, perhaps every two years, and with a fixed duration of about three months.

Third, to ensure that the political commitments we make in CSCE strengthen political legitimacy, we seek adoption in Copenhagen and confirmation at the Summit of the principle of free and fair elections, political pluralism, and the rule of law.

Fourth, we seek confirmation at the Summit of the Bonn Principles of Economic Cooperation. These principles make clear our mutual commitment to the supportive relationship between political and economic liberty. Specifically, 35 nations will endeavor to achieve or maintain the free flow of trade and capital, market economies with prices based on supply and demand, and protection for all property including private property and intellectual property.

Fifth, CSCE can play a major role in dispute management. We therefore hope that the CSCE Summit will reinforce the mandate of the January 1991 Valletta Conference on Peaceful Settlement of Disputes so that it can achieve concrete results. We also believe CSCE can foster military openness and transparency through innovative proposals in the Vienna CSBM talks, for example, the proposal for a mechanism to request clarification of unusual military activities.

In particular, we believe that CSCE should consider a mechanism to improve communications among member states. Our approach might be similar in essence, if not in structure, to the mechanism we have established in the human dimension area as well as to the one which we plan to establish for CFE. We should find a way of constructively addressing compliance questions with regard to CSCE security obligations. This might include observation and inspection reports in accordance with the Stockholm agreement. We should provide for meetings to exchange information and to discuss the implications of military activities or other unusual occurences having security implications.

Sixth, I proposed that we begin preparatory work for a possible CSCE Summit through a meeting of officials this summer -- so I am, of course, pleased that the 35 nations have now agreed that our officials will meet next month in Vienna.

I am also pleased that the 35 have agreed to our offer to host a CSCE ministerial meeting this fall in connection with the U.N. General Assembly.

Then, at the CSCE Summit, we would expect to sign a CFE agreement, and President Gorbachev last week indicated he shared this view. At the 35 nation Summit, we also would expect to review, record, and consolidate progress in all three Helsinki baskets; to strengthen CSCE as a process; and, to plan ahead for the 1992 review conference.

Our work, both before the Summit and during it, must also address the subject of institutionalizing CSCE.

Until now, CSCE has shown a remarkable ability to both reflect and change with the times. I am confident that it will continue to do so, provided we preserve the flexibility that has made it effective. As we consider proposals for CSCE's development -- either for adoption at the Summit or for referral by the Summit leaders to other upcoming meetings of the CSCE -- the United States will be guided by three key principles.

One, proposals should reinforce fundamental democratic and market values. Two, suggestions for new institutions should complement rather than duplicate roles assigned to existing institutions and fora. And three, proposals should result in a stronger trans-Atlantic process of dialogue and consultation regarding Europe's future.

The American delegation to this Copenhagen meeting, which is headed by Ambassador Max Kampelman and which has the complete confidence of President Bush and, of course, myself, will be guided by these criteria.

CSCE: The Conscience of the Continent

I began my remarks with a tribute to the Helsinki monitors who risked their lives and liberty to advance the cause of freedom for others. Many have lived to see the dawn of a much more hopeful day. Some of the monitors are with us in this chamber, and many of them serve as elected representatives of the newly emerging democracies of Central and Eastern Europe. One of the founding monitors of Charter '77 now honors us by leading the distinguished delegation from The Czech and Slovak Federal Republic. Ambassador Hajek, you -- and your courageous colleagues -- are the very embodiment of CSCE's human dimension.

You have given this process a heart, a mind, and a searching conscience. When many viewed CSCE with cynicism, you answered them with dynamism. You taught us to raise our sights and raise our voices.

The Danish author, Isak Dinesen, was another believer in the power of the human will. One of her favorite mottos was "Je responderay!" I will respond. She lived by that principle, and she was proud to recount how occupied Denmark lived by it during the dark days of the Second World War. The Danish people took it upon themselves to save the entire Jewish community of Denmark -- some 8,000 men, women, and children. By honoring human dignity and the ties that bind all of us, by their efforts and the grace of God, they succeeded beyond all expectation.

Their example is proof positive that commitment of will matters, that responsibility to others matters, and that individual freedoms to act, and think, and feel, can shape not only the moment but the future of one's country.

These same strengths must shape Europe's future. Channeled through CSCE, they can become the conscience of the continent.

# # #

PLENARY REMARKS BY THE HONORABLE MAX M. KAMPELMAN

Head of the U.S. Delegation

to the

Copenhagen Meeting of the Conference of the Human Dimension

Plenary, June 11, 1990

Thank you, Mr. Chairman.

It is a privilege for me to return to CSCE at such a hopeful time for human rights. When last I was associated with this process from 1980 to 1983, the divisions between East and West could not have been more sharp. We inched forward in Madrid, in spite of that atmosphere. We made broad progress in Vienna. And today, in Copenhagen, even longer strides can be taken. In this meeting, we can do much to ensure that we keep moving forward. The spirit here, I sense, is a constructive one.

At the end of the three-year Madrid Meeting, the human rights picture remained dark. I said then that the United States welcomed the Concluding Document because "the pursuit of peace was too vital, the need for understanding too indispensable, the importance of the Helsinki accords too great to permit us to be discouraged by the task or by the obstacles we face."

My government considered it equally vital, equally indispensable and equally important that those words lead directly to deeds. We believed it then. We believe it now. The true measure of progress in CSCE is the degree to which the commitments of our governments are reflected in the lives of our peoples.

The recent gains for human rights that have been made in Central and Eastern Europe are significant and impressive. There is, we will all agree, work left undone. As Secretary Baker put it last week, "we must continue to press until CSCE's high standards of human rights prevail throughout Europe, until they extend to every individual." Our agenda, therefore, calls for a review of implementation, the subject of these remarks. Our main emphasis in Copenhagen, however, will be forward rather than backward looking.

I was struck by the message President Havel addressed to this Conference. He wrote that the recent democratic revolutions in Central and Eastern Europe have "created conditions under which the protection of human rights can cease to be an arena of heated arguments and become what it should have been all along -- a sphere of continuous, regular and purposeful exchange of information and experience" designed to foster human rights observance.

In that same spirit, the distinguished delegate from the GDR said: "What has been achieved in Europe since autumn last must...not lead to complacency."

My delegation also listened attentively to Ambassador Reshetov's presentation last week on the monumental reforms in the Soviet Union. We appreciated his observation and I quote: "All our peoples at one time or another have gone through democratic processes, and nowhere have these been without a problem. No one has been able to jump from one stage to the next just overnight."

From my own country's experience of the past two hundred years, we recognize that there is no easy formula for successful democracy building. American democracy remains imperfect with an unfinished agenda. At the same time, our <u>being</u> a democracy gives our nation the strength and flexibility to right old wrongs and meet new challenges. Governments can never be perfect, because they are constituted by fallible human beings. But governments can be made <u>perfectible</u>, if they are built on the basis of civil and political freedoms.

Today, the United States shares the house of democracy with many nations. That welcoming house has many mansions. Each is squarely and unmistakably built on

respect for human freedom and political legitimacy. Let us here continue our effort to build a lasting foundation of human rights and democracy for all of us and our peoples.

My government wants perestroika to succeed in the Soviet Union. We view perestroika as a uniquely Soviet response to a legacy of mounting political and economic problems. It is also an attempt to alter the very fabric of an antiquated political culture. We see it as highly significant and most welcome that President Gorbachev considers the establishment of an open, humane, law-ruled, democratic society as critical to the success of reform. We note today the problems that remain with more, rather than less, appreciation for that which has already been dramatically accomplished.

We have seen the beginning of competitive elections for national, republic and local offices. We welcome the repeal of laws which once made the expression of peaceful dissent a felony. Glasnost is increasingly evident. Freedom of religion, speech and association are evolving. Political, religious and psychiatric prisoners have been released. Emigration and foreign travel have dramatically increased. The institutionalization of reform may be on the way as executive, legislative, judicial and administrative remedies for addressing human rights

violations are, we are told, in the process of being created, to conform to obligations under the Helsinki, Madrid and Vienna documents. We trust that promise will soon be a reality.

Mr. Chairman, it is appropriate at this point to acknowledge that, in the spirit of the CSCE, the Soviet Union and the United States have cooperated fully with one another in sustaining a high-level dialogue relative to the human dimension. Soviet authorities have been active participants in mutual exchanges designed to further the rule of law, improve psychiatric practice, and ease conditions for the elderly and disabled. We want to express our satisfaction with that mutual exchange to the Head of the Soviet Delegation at this conference, who has been one of our major interlocutors in these bilateral discussions, and to his colleagues.

President Gorbachev has said that there is no turning back on the path of reform. We believe a process has begun which must be carried through steadily to completion. We look forward to the 1991 Moscow Meeting of this conference in that expectation.

Since our Paris meeting a year ago, the Soviet Government has released from labor camp and exile all known

prisoners sentenced under purely political and religious articles of the criminal code. We now await the completion of legal reforms to that code. We are also in a continuing exchange of information on other cases where political factors may have led to criminal convictions.

We welcome a number of early releases from Perm Camp 35, but there are still about two dozen prisoners in the camp where the length of the sentences and the arduous strict regime under which the people serve reflect "old-thinking" and call for review. We hope that review is underway. Let me, in this connection, say that, as part of our ongoing bilateral exchange of information, the United States has been fully responsive to Soviet requests for documentation on alleged political prisoner cases in the United States.

The extraordinary rise in emigration from the Soviet Union and the widened opportunities for Soviet citizens to travel abroad have impressed us. We await passage of the promised legislation on entry and exit. It should go a long way toward institutionalizing the liberalized practices pursued by the Soviet government since 1986 and help ensure that the problems of the past never recur. In that connection we welcome the questions posed by the delegate from the Netherlands.

In Vienna, participating States committed themselves to "take the necessary steps to find solutions within six months, to all applications based on the human contacts provisions" of the CSCE. That six-month deadline passed on July 19, 1989. Yet, there are still approximately 60 unresolved longstanding cases and there are about ten persons on the U.S. representation list of bilateral cases whose exit permission has been denied. Some of these individuals seeking relief have been waiting for more than ten years. The numbers are now quite small. It would be good if they could be brought down to zero.

I must now very briefly touch upon one additional outstanding matter of the past that should be erased from our agenda. I refer to the disappearance in January, 1945 in Hungary of Raoul Wallenberg and his imprisonment in the Soviet Union following a mission of mercy in behalf of the Jewish community.

In recent days, Time magazine has published excerpts from Dr. Andrei Sakharov's about-to-be-published Memoirs. In it, the Nobel laureate refers to the official Soviet position that Mr. Wallenberg died in prison in 1947. Dr. Sakharov concluded that the official position "most assuredly is untrue." He requested, and I quote again, that: "Diplomats should continue to press Soviet authorities

to clear up the Wallenberg mystery." In that spirit, and in the spirit of glasnost, our delegation again urges full disclosure. We cannot accept the notion that the official files have disappeared. We seek the complete truth and believe we will all gain from its disclosure.

Mr. Chairman, favorable comment has been heard in this room about what is called "the CSCE Human Dimension Mechanism" adopted in Vienna. We join with those who have expressed continued support for it. The mechanism will increasingly serve as a device for understanding among us and the reduction of tension between us.

To build a better future, all nations must come to terms with the past -- the legacy of the Cold War and the conflicts that preceded the Cold War.

In my government's view the future requires that the Soviet Union come to terms with the tragic legacy of the Hitler-Stalin Pact. The Government of the United States looks to the day when Latvia, Lithuania and Estonia will be widely recognized as independent and sovereign, able to join this body as participating States. The United States agrees with the decision of the Soviet Congress of People's Deputies when it decreed on December 24, 1989 that the so-called Molotov-Ribbentrop Pact -- the Nazi-Soviet Pact of

1939 -- was null and void from its inception. The fruits of that treaty's secret protocols -- namely the forcible absorption of Latvia, Lithuania and Estonia into Soviet borders controlled by Soviet law and authority -- are thus automatically illegal. This has been our longstanding position. It is our position today.

We realize that declarations alone do not by themselves bring a relationship of fifty years to a peaceful and stable end. There are issues of boundaries, trade, rights of minorities, property, security and a host of other complexities and simplicities to be resolved. These issues require immediate and continuing and patient negotiations. All of these means of peaceful resolution are undermined by economic embargoes, the movement of tanks through streets in the dark of night, the forcible entry of troops, the forced isolation from access by the press, and other threatening actions and words.

We urge the Soviet Union to do early what it knows must be done sooner or later in its own best interests -- negotiate. Let there not be a scar on a steadily improving record of compliance with the Helsinki Final Act.

Mr. Chairman, the series of new national elections that have taken place in the emerging democracies

of Europe represent just the first stage in the ongoing process of democracy building. The newly elected governments must deal with inherited burdens left them by past decades of repression. Old ways die hard. Totalitarian structures -- pervasive and deeply invasive by their very nature -- are difficult to dismantle. Human beings who have lived long in darkness must adjust to the light. All governments bear a heavy responsibility for helping their societies make successful transitions from oppression to democracy. In this, they stand accountable both to their own citizens and to the world community.

As societies struggle to free themselves from the ice of repression, and to plant the seeds of democracy, they risk becoming mired in strife and intolerance. Among our major human rights concerns, not only in the Soviet Union, but elsewhere in Europe, is the protection of minority rights -- an issue that the new governments must confront from the outset. Anti-Semitism and racial, religious and ethnic hatred of other kinds are a symbol of this danger. The time calls for a vigorous, systematic and public condemnation of such prejudices by the highest authorities of government. There is no substitute for vigorous moral leadership.

There are no facile answers to the problems associated with ensuring the rights of minorities. Governments cannot erase prejudice and longstanding animosities, but governments can act to stop discrimination and persecution. Governments can become part of the solution or become part of the problem. If governments impose order at the expense of fundamental freedoms, if they fan the flames of intolerance, or if they stand by and do nothing as hatred consumes their society, then they are part of the problem. If, in contrast, governments ensure equal protection of just laws, if they welcome cultural diversity, if they take a firm public stance against prejudice, then they are part of the answer.

The significant contribution of Copenhagen to the process will come as this body strengthens the concepts of free elections, political pluralism, and the rule of law. At the same time, we must point out the direction CSCE must follow as it helps Europe come to grips in a constructive manner with the minority tensions that challenge us.

The peoples of Central and Eastern Europe know better than anyone just how far their countries have come, how far they have to go, and how much the CSCE has helped through the years to bring their citizens closer to human dignity. We marvel at the sheer immenseness of the task and recognize its historic importance.

Through implementation of the CSCE principles and provisions, the participating States can help ensure a brighter future for Europe. The day when all her peoples shall live in freedom, prosperity, dignity, and peace has not yet arrived, but it is coming. By our efforts here in Copenhagen, Mr. Chairman, we can hasten its dawning.

Thank you.

U.S. Delegation
to the
Copenhagen Conference on The
Human Dimension of the CSCE

Statement of the U.S. Delegation before
Subsidiary Working Body-A
by John M. Evans
14 June 1990

Mr. Chairman, before proceeding to my remarks about the human dimension mechanism, today's date, June 14, prompts me to recall some tragic events which occurred fifty years ago this week. I would like to touch briefly on those events.

Fifty years ago, Hitler's troops marched into France. And at the same time, Stalin's forces occupied the Baltic States. Remarkably, Germany and France have not only reconciled their differences but are major factors in the continuing process of European integration. Regrettably, the Soviet Union and the Baltic States have not yet managed to reconcile their differences in a way that would profit both.

At the request of the United States Congress, President Bush has declared today, June 14, to be, in the United States, Baltic Freedom Day. In light of that proclamation, we would like to recall the commitments contained in Principle IV of the Helsinki Final Act, which states that, "The participating States will ... refrain from making each other's territory the object of military occupation or other direct or indirect measures of force in

contravention of international law, or the object of acquisition by means of such measures or the threat of them. No such occupation or acquisition will be recognized as legal."

Mr. Chairman, when the United States gave consensus to the Vienna Concluding Document in January, 1989, we did so in the recognition that the Chapter on the Human Dimension added something to the CSCE process that was substantially new. The human dimension mechanism reinforced our long-standing belief that human rights are and must be of paramount concern to all nations if we are to develop the trust and security that are necessary for peace and enduring stability in the world today. The human dimension mechanism also initiated an elementary and, admittedly, in some ways vague system for dealing with human rights and humanitarian concerns among the participating States between our regularly scheduled meetings of this conference.

When we gathered in Paris last year for our first discussion on the human dimension mechanism, in some ways we were handicapped. The Paris Meeting came very soon after the close of the Vienna Follow-up Meeting and, as a consequence, there was a limited number of uses of the mechanism that we could evaluate at that time. That limitation made it difficult to assess either the effectiveness of the mechanism or the substance of its use. In addition, in Paris some countries preferred that their invocations of the mechanism not be made public, while others continued to reject the mechanism altogether.

A year later, a great deal has changed. In particular, we welcome the unequivocal

acceptance of the human dimension mechanism by all the countries participating here today.

Many of the changes that have taken place in Europe during the last year are changes that many of us had called for in this forum for many years. And while none of us here today would regret any of those changes which have taken place throughout Europe, it is clear that the mechanism could not keep pace with those events. In a rapidly and dramatically changing Europe, the human dimension mechanism seemed to have been left behind. Nothing is more indicative of this than the record of its use over the last year, and particularly in the last six months. After the eventful fall of 1989, few countries made representations or requests for information to other countries under the provisions of paragraph 1. As in Paris, we now find ourselves with a record which is very difficult to assess.

I do not wish, Mr. Chairman, to suggest that the human dimension mechanism has outlived its usefulness. On the contrary, the human dimension mechanism may have greater value to us now than ever before. The United States, for its part, has greater confidence now that the mechanism, when it is used, will be used in good faith, with the genuine aim of seeking information and resolving concerns. Incorrect uses of the mechanism -- and there have been some, in our opinion -- are less likely to occur. In a trans-Atlantic relationship that is less marked by polemics and more closely identified with cooperation, the mechanism is a vehicle through which we can communicate our concerns over the issues which trouble us.

And we do find several issues of concern to us today. We greet positively the news that President Gorbachev has met with the leaders of the Baltic States. In this connection, Mr. Chairman, I've just received word of something from Washington that we'd like to communicate here. In a hearing before the House Foreign Affairs Committee, Secretary Baker stated that the United States hopes that this meeting in Moscow "will lead not just to meetings with Soviet leaders but (to) a systematic dialogue toward a peaceful resolution" of the issues," adding, however, that "a practical narrowing of the Soviet and Lithuanian differences is yet to be seen." We hope yesterday's meeting is the beginning of a dialogue which, undertaken in the spirit of the Helsinki Final Act, may go a long way towards resolving this situation.

We would encourage a similar dialogue in Romania. We deeply regret that excessive force was used yesterday, and continued this morning, in breaking up a demonstration in Bucharest. Therefore, in accordance with paragraph 1 of the Chapter on the Human Dimension of the Vienna Concluding Document, we respectfully request that our Romanian colleagues provide more information about this event.

I'm certain all of us welcome suggestions for improving the working of the mechanism, and we will certainly consider suggestions for expanding it. Indeed, a suggestion has come to our attention for strengthening the mechanism, and we are giving this proposition serious consideration. However, steps to institutionalize the CSCE are, in

our view, premature at this meeting in Copenhagen. Likewise, we do not believe that the mechanism should attempt to duplicate in the CSCE framework the functions of other existing bodies. CSCE will be most effective it when complements those bodies, and addresses issues that they are unable to or have no mandate to address. With this in mind, Mr. Chairman, we look forward to continued work at this meeting on the human dimension mechanism. Thank you.

U.S. Delegation
to the
Copenhagen Conference on The
Human Dimension of the CSCE

HON. STENY H. HOYER

Vice-Chairman of the U.S. Delegation

to the Copenhagen Meeting of the CSCE

and

Co-Chairman

U.S. Commission on Security and Cooperation in Europe

PLENARY

June 15, 1990

MR. CHAIRMAN, IT IS NOW FIVE YEARS SINCE I FIRST BECAME AN ACTIVE PARTICIPANT IN THE HELSINKI PROCESS. IT IS A SPECIAL PLEASURE FOR ME TO ATTEND THIS CONFERENCE -- WHICH IS BEING HELD IN THE BIRTHPLACE OF MY FATHER -- AND TO SEE HOW FAR WE HAVE COME TOGETHER.

WHEN I WAS APPOINTED TO THE U.S. COMMISSION ON SECURITY AND COOPERATION IN EUROPE IN 1985, THERE WERE SERIOUS QUESTIONS IN THE UNITED STATES ABOUT THE VIABILITY OF THE HELSINKI PROCESS. HAD THE PROCESS EMPHASIZED SECURITY AT THE EXPENSE OF HUMAN RIGHTS? WAS IT PERHAPS TIME TO RECONSIDER THE HELSINKI PROCESS IN THE ABSENCE OF TANGIBLE PROGRESS ON HUMAN RIGHTS QUESTIONS?

BY THE TIME THE FIRST MEETING ON THE HUMAN DIMENSION TOOK PLACE IN PARIS LAST JUNE, THE GENERAL HEALTH OF THE CSCE HAD IMPROVED GREATLY. THE GROWING COMMITMENT OF THE MEMBER STATES TO HELSINKI PRINCIPLES ENABLED US TO EXTEND OUR REACH BEYOND ANYTHING WE HAD ACHIEVED BEFORE. AT THAT MEETING I HAD THE HONOR OF INTRODUCING ON BEHALF OF THE AMERICAN DELEGATION A PROPOSAL REGARDING FREE ELECTIONS AND POLITICAL PLURALISM. SINCE THEN ONLY ONE YEAR HAS PASSED, BUT MULTI-PARTY ELECTIONS HAVE NOW BEEN HELD THROUGHOUT EASTERN EUROPE. THE GROUNDWORK HAS BEEN LAID FOR INSTITUTIONALIZING FREE ELECTIONS AS A FUNDAMENTAL RIGHT. THAT IS A MOMENTOUS, TANGIBLE CONTRIBUTION OF THE CSCE TO THE CORPUS OF RIGHTS LAID OUT IN OUR INTERNATIONAL DOCUMENTS.

TODAY, WE ARE AT THE SECOND OF THREE SCHEDULED MEETINGS DISCUSSING HUMAN RIGHTS. THE SITUATION HAS CHANGED AT SUCH A PACE THAT ONE CAN HARDLY PICK UP A NEWSPAPER WITHOUT SEEING REFERENCES TO THE SIGNIFICANCE OF THE HELSINKI PROCESS. IN FACT, ANALYZING THE RECENT BUSH-GORBACHEV SUMMIT, THE IMPENDING UNIFICATION OF GERMANY, AND THE SEARCH FOR NEW EUROPEAN SECURITY ARRANGEMENTS, ONE AMERICAN COMMENTATOR DESCRIBED THE CSCE AS "THE SEXIEST NEW ACRONYM" IN INTERNATIONAL DIPLOMACY. WHAT THAT REALLY MEANS IS THAT THE PRESS MAY FINALLY BEGIN TO GIVE CSCE THE ATTENTION IT GENUINELY DESERVES.

OF COURSE, WE HERE KNOW THAT THE CSCE IS NOT NEW. NOW, HOWEVER, IN THE WAKE OF THE REVOLUTIONARY CHANGES WHICH HAVE TRANSFORMED OUR WORLD, WE MUST HOLD TRUE TO THE POWERFUL IDEALS OF THOSE CSCE PRINCIPLES WHICH HAVE INSPIRED AND GUIDED OUR WORK SINCE THE BEGINNING: THE PRESERVATION AND ENHANCEMENT OF INDIVIDUAL HUMAN FREEDOM; RESPECT FOR THE SOVEREIGNTY OF ALL STATES; AND MILITARY SECURITY AND COOPERATION AMONG STATES. THEY NOW APPEAR TANTALIZINGLY WITHIN OUR REACH.

THE FINAL ACT REFERS TO THE "COMMON PURPOSES" OF ALL THE SIGNATORIES; IT RECOGNIZES THE "INDIVISIBILITY" OF EUROPEAN SECURITY AND ITS LINK TO PEACE IN THE WORLD

GENERALLY; IT ESTABLISHES PRINCIPLES TO BE APPLIED "EQUALLY AND UNRESERVEDLY." THE UNIQUENESS OF THE FINAL ACT IS NOT IN THE RIGHTS IT DESCRIBES, FOR THOSE RIGHTS WERE PREVIOUSLY SET DOWN IN DIFFERENT WAYS AND IN MANY DIFFERENT PLACES. WHAT IS SINGULAR IN THE FINAL ACT IS THE CONCEPT OF BALANCE. OUR LATE TEACHER AND MASTER IN THIS WORK, ACADEMICIAN AND HUMAN RIGHTS ADVOCATE DR. ANDREI SAKHAROV ONCE SAID, "PEACE, PROGRESS, HUMAN RIGHTS -- THESE THREE GOALS ARE INSOLUBLY LINKED TO ONE ANOTHER. IT IS IMPOSSIBLE TO ACHIEVE ONE OF THESE GOALS IF THE OTHER TWO ARE IGNORED."

IT IS CRITICAL THAT WE MAINTAIN THE BALANCE TO WHICH SAKHAROV REFERRED IN THIS PERIOD OF RAPID CHANGE. I BELIEVE THAT WITHIN CSCE A CONSENSUS HAS EMERGED BY WHICH WE ALL RECOGNIZE UNRESERVEDLY THE DIGNITY OF MAN. THE IMPORTANCE OF HUMAN RIGHTS, BOTH IN THEIR ABSTRACT SENSE AND AS A CRUCIAL DETERMINANT GOVERNING THE RELATIONSHIP BETWEEN STATE AND SOCIETY, HAS EMERGED AS THE GUIDING PRINCIPLE UPON WHICH POLITICAL PLURALISM AND THE ERADICATION OF SOCIAL INJUSTICE ARE TO TAKE PLACE. RARELY HAVE LEADERS IN PUBLIC LIFE BEEN GIVEN THE CHANCE TO ACHIEVE SO MUCH CHANGE. THE PEOPLE OF EUROPE HAVE GIVEN US A GREAT OPPORTUNITY, AND WE MUST NOW NURTURE, SUPPORT AND GUIDE AS BEST WE CAN. IT IS A PROFOUND AND AWESOME MANDATE WHICH THEY HAVE GIVEN US.

ONE OF THE MOST FUNDAMENTAL OF THESE RIGHTS CONTAINED IN OUR DOCUMENTS IS FREEDOM OF MOVEMENT. IT IS EXTREMELY GRATIFYING TO OBSERVE THE VAST IMPROVEMENTS IN THE IMPLEMENTATION OF HELSINKI PRINCIPLES IN THE PAST YEAR. AS AN AMERICAN REPRESENTATIVE IT IS REASSURING TO READ THAT FOREIGN MINISTER SHEVARDNADZE AND SECRETARY BAKER SEEM AGREED THAT THE EMIGRATION OF SOVIET JEWS IN FACT WILL NOT BE AFFECTED BY THE PERIPHERAL QUESTION OF SETTLEMENT IN THE OCCUPIED TERRITORIES. THE NOTION THAT PEOPLE HAVE THE RIGHT TO LEAVE THEIR COUNTRY -- IRRESPECTIVE OF THEIR FINAL DESTINATION -- HAS CLEARLY SUNK DEEP ROOTS AMONG THE GOVERNMENTS OF PARTICIPATING CSCE STATES.

STILL, THE DRAMATIC IMPROVEMENTS WE HAVE SEEN -- PROGRESS FOR WHICH SOME HERE IN THIS VERY ROOM CAN CLAIM CREDIT -- PORTEND AN ERA OF INCREASINGLY DIFFICULT AND COMPLEX TASKS FOR ALL OF US. NOW, HUMAN RIGHTS ABUSES ARE BECOMING MORE SUBTLE AND MORE DIFFICULT TO ERADICATE. WE MUST NOT ALLOW THE COMPLEXITY OF THE PROBLEMS TO STIFLE DEBATE OR THWART OUR DESIRE TO ACHIEVE ALL THAT IS POSSIBLE AND ALL THAT CSCE HOLDS OUT TO US.

BARRIERS REMAIN WHICH CONTINUE TO DIVIDE OUR COMMUNITIES, NO MATTER WHERE WE LIVE, REGARDLESS OF OUR POLITICAL AND ECONOMIC SYSTEMS. WE ARE NO LESS VULNERABLE TO SUCH BARRIERS IN THE UNITED STATES THAN IN THE SOVIET UNION, NO FREER OF THEM IN FRANCE OR GERMANY THAN IN ROMANIA OR HUNGARY. THAT UNMISTAKABLE AND UNIVERSAL THREAT TO EACH

AND EVERY PARTICIPATING STATE OF THE CSCE SHOULD MAKE THE ERADICATION OF SUCH DIVISIVE OBSTACLES OUR FIRST PRIORITY.

I AM SPEAKING, OF COURSE, OF THE ALARMING SPREAD OF INTOLERANCE, PREJUDICE AND RACISM IN OUR COUNTRIES. THEY ARE LIKE WEEDS WHOSE CONTINUED PRESENCE AND TENACIOUS SURVIVAL CAN STRANGLE THE FRAGILE DEMOCRATIC ORDER WE HAVE BEEN LABORING TO CULTIVATE THROUGHOUT THE CSCE. IF WE ALLOW THEIR ROOTS TO SPREAD, WE STAND A GOOD CHANCE OF FORFEITING THE PROGRESS WE HAVE MADE.

IT TOOK MY COUNTRY TOO MANY YEARS TO ANSWER THE COMMAND OF RACIAL EQUALITY CONTAINED IN THE FOURTEENTH AMENDMENT TO OUR CONSTITUTION. IT WAS NOT SUFFICIENT THAT THE CONSTITUTION PROCLAIMED ALL EQUAL BEFORE THE LAW. A PLETHORA OF LAWS TO IMPLEMENT THOSE WORDS EVENTUALLY HAD TO BE ENACTED. AN INDEPENDENT JUDICIARY HAD TO GIVE FORCE AND MEANING TO THE INTENT OF THESE LAWS. AND SOCIETAL ATTITUDES HAD TO CHANGE. THE ROAD WHICH THE REV. MARTIN LUTHER KING, JR. TRAVELLED FROM MONTGOMERY, ALABAMA TO OSLO WAS LONG AND DIFFICULT. AS A CHAMPION OF BASIC HUMAN RIGHTS FOR MILLIONS OF AMERICANS, HE WON GRUDGING ADMIRATION EVEN OF HIS ENEMIES BY THE STRENGTH AND SERENITY WITH WHICH HE HELD HIS CONVICTIONS. THOSE CONVICTIONS WERE A SIMPLE YET COMPELLING PLEA FOR COMPASSION, FOR JUSTICE, AND FOR RESPECT FOR THE DIGNITY THAT IS INHERENT IN ALL INDIVIDUALS REGARDLESS OF RACE, SEX OR NATIONALITY. INSPIRED BY REVEREND KING'S EXAMPLE, AMERICANS ARE STILL WORKING TO ACHIEVE THESE GOALS.

PEOPLE ON THIS CONTINENT ARE NO DIFFERENT. WE WERE ALL DEEPLY SADDENED AND GREATLY DISTURBED BY OUTBREAKS OF ETHNIC AND COMMUNAL VIOLENCE IN THE BALKANS, THE CAUCASUS AND, MOST RECENTLY, IN CENTRAL ASIA. IN FRANCE, PRESIDENT FRANCOIS MITTERAND REMINDED HIS PEOPLE OF THE NEED TO BE CLEAR IN THESE MATTERS -- AS INDIVIDUALS, AS NATIONS, AND AS A COMMUNITY OF NATIONS WE WILL NOT ABIDE INTOLERANCE AND PREJUDICE. WHETHER THE FOCUS OF HATRED IS THE COLOR OF ONE'S SKIN, ONE'S RELIGION, NATIONAL ORIGIN OR POLITICAL VIEWS, WE MUST NOW ALLOW ANY INDIVIDUAL OR GROUP TO BE DEMEANED OR EXCLUDED BECAUSE OF PREJUDICE. NOT A SINGLE ONE.

IN THIS REGARD, MR. CHAIRMAN, WE CANNOT IGNORE WHAT IS CURRENTLY TRANSPIRING IN BUCHAREST. THE PEACEFUL DEMONSTRATIONS IN UNIVERSITY SQUARE REPRESENTED AN ATTEMPT BY MANY WHO FELT CUT OUT OF THE POLITICAL PROCESS IN ROMANIA TO FIND A VOICE. OVER THE COURSE OF SEVEN WEEKS, THEY CALLED FOR A RETURN TO THE IDEALS OF THE DECEMBER REVOLUTION: UNITY, TOLERANCE, MUTUAL RESPECT, AND THE RIGHT TO FREE EXPRESSION AND HONEST COMPETITION FOR PUBLIC SUPPORT OF POLITICAL VIEWS.

PRESIDENT ILIESCU AND HIS GOVERNMENT MUST USE THE MANDATE THEY WON IN THE ELECTIONS TO OPEN A GENUINE DIALOGUE

WITH THE OPPOSITION, HEALING THE PROFOUND DIVISIONS IN ROMANIAN SOCIETY RATHER THAN FURTHERING THE DANGEROUS POLARIZATION WHICH THEY REGRETABLY HAVE ENCOURAGED.

- IT IS A PARADOXICAL AND OFTEN FRUSTRATING VIRTUE OF DEMOCRACY THAT IT ALLOWS FREE EXPRESSION TO PREJUDICE AS WELL AS TO NOBILITY OF THOUGHT AND FEELING. HOWEVER, THAT FREE REIN BRINGS WITH IT A RESPONSIBILITY ON THE PART OF GOVERNMENT TO ASSURE THAT INDIVIDUALS AND MINORITIES DO NOT SUFFER TYRANNY AT THE HANDS OF THE MAJORITY. PARTICULARLY WE IN THE LEGISLATURES, WHERE DIVERSITY OF OPINION AND THE POWER OF PERSUASION ARE THE TOOLS OF OUR TRADE, BEAR A SPECIAL RESPONSIBILITY TO FOSTER A CLIMATE OF TOLERANCE.

IN A DECEMBER 1989 BERLIN SPEECH, SECRETARY OF STATE JAMES BAKER CALLED UPON PARLIAMENTARIANS TO TAKE PART MORE DIRECTLY IN CSCE PROCESSES. THE UNITED STATES HELSINKI COMMISSION, COMPOSED MAINLY OF MEMBERS OF THE U.S. CONGRESS, ALREADY HAS DEVELOPED AN ONGOING RELATIONSHIP WITH A BODY IN THE SOVIET CONGRESS OF PEOPLE'S DEPUTIES WHICH HAS BEEN BENEFICIAL TO BOTH SIDES. I WELCOME THE GROWING INTEREST IN CSCE EXHIBITED IN EUROPEAN PARLIAMENTS, ESPECIALLY THE NEW PARLIAMENTS OF EASTERN EUROPE. WE ON CAPITOL HILL LOOK FORWARD TO WORKING AND CONSULTING WITH OTHER CSCE COMMISSIONS IN EUROPEAN LEGISLATURES.

OUR COLLEAGUES IN THE JUDICIAL BRANCHES MUST USE LAWS TO SHORE UP FREEDOM AND EXPAND DISCOURSE. A WELL-FUNCTIONING JUDICIARY GUARANTEES THAT THE BURDEN OF PROOF LIES WITH THOSE WHO WOULD LIMIT FREEDOM -- NOT THOSE WHO WOULD EXERCISE IT.

THE CSCE AS AN INSTITUTION MUST ALSO TAKE A STAND. HUMAN DIGNITY, TOLERANCE, MUTUAL RESPECT -- LET THESE ENDURING AND FUNDAMENTAL VALUES BE OUR STANDARDS AS WE ENTER THE 1990S, A DECADE IN WHICH THE NUMBER OF PARTICIPATING CSCE STATES WILL GROW. LITHUANIA, LATVIA, ESTONIA AND ALBANIA HAVE ALL EXPRESSED AN INTEREST IN PARTICIPATING IN THE CSCE. WE WELCOME THEIR REQUEST TO JOIN IN OUR ONGOING SEARCH FOR SECURITY AND COOPERATION AMONG STATES AND IN DEVELOPING POLICIES WHICH GUARANTEE THE RIGHTS OF COMMUNITIES AND INDIVIDUALS.

INCREASINGLY, THE CSCE WILL HAVE TO ADDRESS THE RELATIONSHIP BETWEEN THE PROTECTION OF INDIVIDUAL AND MINORITY RIGHTS. LET US PAY PARTICULAR ATTENTION TO THE RIGHT TO PURSUE MUTUALLY ACCEPTABLE AND FAIR PROCEDURES FOR RESOLVING PEACEFULLY CONFLICTS OR DISPUTES BETWEEN ANY COMBINATION OF STATES, PEOPLES, MINORITIES AND INDIVIDUALS.

PARTICULARLY IN THIS LAST AREA, THE CSCE CAN SERVE AS A SOURCE OF VALUES AND ALSO AS AN AGENT OF CONFLICT RESOLUTION. I URGE THAT THIS MEETING AND THE CSCE SUMMIT

LATER THIS YEAR CONSIDER CREATING A PERMANENT CSCE CONFLICT RESOLUTION COUNCIL TO WORK WITH STATES AND PEOPLES.

THIS COUNCIL SHOULD SUPPLEMENT, NOT REPLACE, EXISTING CONFLICT RESOLUTION INSTITUTIONS. IT MIGHT MEDIATE INTERNAL PROBLEMS WITH THE CONCURRENCE OF THE STATE IN QUESTION, AND COULD BE PARTICULARLY USEFUL IN DISPUTES BETWEEN ETHNIC GROUPS.

IN A SPEECH TO A PLENARY MEETING IN VIENNA IN NOVEMBER 1988, I PROPOSED A "ZERO OPTION" IN HUMAN RIGHTS, ENVISIONING ZERO PRISONERS OF CONSCIENCE, ZERO JAMMING OF BROADCASTS, ZERO CASES OF THWARTED FAMILY REUNIFICATION, AND OTHER VIOLATIONS OF HUMAN RIGHTS. THE VIOLATIONS I THEN HAD IN MIND WERE THE KIND THAT STATES HAVE THE POWER TO CONTROL AND THUS ARE SUSCEPTIBLE TO CHANGES IN OFFICIAL POLICY. HAPPILY, WE HAVE SEEN MUCH PROGRESS IN THIS REGARD.

THE PROBLEM OF RENEWED ETHNIC ANTAGONISMS WHICH NOW CONFRONTS US IS DIFFERENT. IT IS GROUNDED LESS IN THE ACTIONS OF STATES, THOUGH THEY CAN BE A PART, AND MORE IN THE FEELINGS OF INDIVIDUALS AND PEOPLES. FEELINGS, OF COURSE, CANNOT BE LEGISLATED. THEREFORE IT IS UNREALISTIC TO PROPOSE A "ZERO OPTION" FOR NATIONAL ANIMOSITIES, BUT WE MUST DO EVERYTHING IN OUR POWER TO FOSTER A BETTER CLIMATE. WE ABSOLUTELY MUST INSIST ON "ZERO TOLERANCE" FOR ANY NATIONALLY-BASED EXPRESSION OF VIOLENCE.

WE ALL KNOW OF THE BITTERNESS OF MANY ETHNIC DISPUTES THAT HAVE SO OFTEN AND SO TRAGICALLY DISRUPTED PEACE AND COST SO MANY LIVES. THE ANTIQUITY AND THE INTENSITY OF THESE HOSTILITIES HAVE CAUSED MANY TO THROW UP THEIR HANDS IN FRUSTRATION. GOVERNMENTS AND THE INSTITUTIONS OF GOVERNMENT HAVE SEEMED UNABLE TO COPE.

ON ONE LEVEL, SUCH CYNICISM MAY BE UNDERSTANDABLE AT THE END OF THE 20TH CENTURY. BUT I SAY, MR. CHAIRMAN, IF THIS BE WISDOM, THEN LET ME NOT GROW WISE TOO QUICKLY. IF THE REVOLUTIONS OF 1989 HAVE TAUGHT US ANYTHING, IT IS TWO LESSONS: THE DIZZYING CHANGEABILITY OF EVENTS AND THE ENDURING NOBILITY OF THE HUMAN SPIRIT. MANY OF THE POPULAR LEADERS NOW IN POWER IN EUROPE HAVE POINTED TO HELSINKI IDEALS AS THE INSPIRATION IN THEIR LONG STRUGGLE FOR DEMOCRACY AND HUMAN RIGHTS. I WANT TO BELIEVE THAT THE HELSINKI PROCESS WILL BE AN EQUALLY BRILLIANT BEACON SHINING OVER PROGRESS ON NATIONALITY RELATIONS.

AT THIS DAWN OF A NEW AGE, LET US HAVE FAITH IN OURSELVES AND IN OUR ABILITY TO OVERCOME THE LEGACY OF THE PAST. THAT IS THE MISSION OF THE CSCE AND OF ALL WHO LABOR IN ITS VINEYARDS.

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PLENARY REMARKS BY THE HONORABLE MAX M. KAMPELMAN

HEAD OF THE U.S. DELEGATION

TO THE

COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION

PLENARY, JUNE 18, 1990

MR. CHAIRMAN,

ALL OF US HAVE FOLLOWED THE COURSE OF THE UNPRECEDENTED EUROPEAN ELECTIONS THIS YEAR WITH A SENSE OF EXCITEMENT AND EMPATHY. THE HIGH TURNOUT OF VOTERS THROUGHOUT CENTRAL AND EASTERN EUROPE AND THE SOVIET UNION REMIND US OF THE FACT THAT TOO OFTEN WE IN MY COUNTRY AND IN THE WEST TAKE THE RIGHT TO VOTE FOR GRANTED. IN SOME NEWLY EMERGING DEMOCRACIES, CITIZENS WHO HAD BEEN DEPRIVED OF THEIR RIGHT TO VOTE IN FREE ELECTIONS FOR MORE THAN 45 YEARS WENT TO THE POLLS WITH THEIR CHILDREN AND GRANDCHILDREN. IN CZECHOSLOVAKIA, THE GENERATION WITH A DISTANT MEMORY OF DEMOCRACY AND THE GENERATION WITH THE URGENT HOPE FOR A DEMOCRATIC REBIRTH CAST THEIR BALLOTS TOGETHER.

FOR THE FIRST TIME IN DECADES, CITIZENS FELT THEY HAD AN OPPORTUNITY TO HAVE A VOICE. IN MOST INSTANCES, GOVERNMENTS TOOK SERIOUSLY THEIR STATED COMMITMENT TO HOLD MULTI-PARTY ELECTIONS. EFFORTS WERE MADE TO ENSURE THAT

VOTES WERE CAST SECRETLY, COUNTED, AND REPORTED HONESTLY. MILLIONS OF CITIZENS VOTED WITH CONFIDENCE IN THE INTEGRITY OF THE ELECTION PROCESS. INDEED, IN SOME POLLING PLACES IN THE GERMAN DEMOCRATIC REPUBLIC, WESTERN OBSERVERS NOTED THAT ELECTION OFFICIALS HAD THOUGHTFULLY PLACED EXTRA PAIRS OF EYEGLASSES IN THE VOTING BOOTHS -- A SMALL DETAIL PERHAPS, BUT ONE WHICH CLEARLY ILLUSTRATES HOW SERIOUSLY THIS PRECIOUS RIGHT TO VOTE IS BEING TAKEN BY MANY WITH THIS NEW RIGHT TO EXERCISE.

THE ELECTORAL PROCESS DID NOT, REGRETTABLY, PROCEED EVENLY AND WITHOUT IMPEDIMENT IN ALL STATES. THERE WERE INSTANCES OF INTIMIDATION OF CANDIDATES AND VOTERS AS WELL AS IRREGULARITIES IN POLLING PROCEDURES. IT IS FORTUNATELY TRUE THAT THESE INCIDENTS DID NOT, IN MOST CASES, APPEAR TO AFFECT THE OVERALL ATMOSPHERE OR INTEGRITY OF THE ELECTIONS. HOWEVER, A FLAWED ELECTORAL PROCESS IN ROMANIA ALREADY HAS HAD A SERIOUS NEGATIVE IMPACT ON RELATIONS BETWEEN LARGE NUMBERS OF CITIZENS AND THE STATE WITH RESULTS DISTURBINGLY REMINISCENT IN THIS HALL OF THAT COUNTRY'S BRUTAL PAST. IN BULGARIA'S RECENT ELECTION, INTERFERENCE WITH THE ELECTORAL PROCESS WAS APPARENTLY LESS SEVERE, ALTHOUGH REPORTS OF INTIMIDATION GIVE CAUSE FOR CONCERN. WE HOPE ALL OF THESE INSTANCES WERE MERELY TEMPORARY DETOURS ON THE ROAD TOWARD A MORE STABLE DEMOCRATIC SPIRIT AND RECORD OF PERFORMANCE.

WE DO NOT WANT TO DWELL ON VIOLATIONS, BUT TO

STRENGTHEN OUR JOINT RESOLVE TO PREVENT THEIR RECURRENCE. TO BE EFFECTIVELY CARRIED OUT, FREE AND FAIR ELECTIONS MUST REST ON A CLUSTER OF BASIC RIGHTS AND FREEDOMS. THESE INCLUDE THE FREEDOMS OF EXPRESSION, PRESS, ASSEMBLY AND ASSOCIATION. WITHOUT THE JUDICIOUS, INSTITUTIONALIZED PROTECTION OF THESE ESSENTIAL FREEDOMS, THE PROCESS OF FREE AND OPEN ELECTIONS CANNOT PROCEED AS INTENDED. WE ARE, IN THIS CONNECTION, CONCERNED ABOUT AREAS UNDER A STATE OF EMERGENCY, WHERE PLANNED ELECTIONS MAY WELL FIND THEMSELVES NOT AT ALL FREE AND FAIR, GIVEN THE ATMOSPHERE IN WHICH THEY TAKE PLACE.

IT WAS WITH THESE ESSENTIALS FOR FREE AND FAIR ELECTIONS IN MIND THAT MY GOVERNMENT, THE UNITED KINGDOM AND CANADA DEVELOPED THE PROPOSAL WHICH WE RECENTLY TABLED AT THIS CONFERENCE WITH GROWING SUPPORT OF MANY OTHER DELEGATIONS. BEYOND THE COMMITMENT TO FREE, OPEN AND PERIODIC ELECTIONS, THIS PROPOSAL CALLS UPON STATES TO GUARANTEE THEIR CITIZENS INDIVIDUALLY AS WELL AS IN GROUPS THE RIGHT TO ESTABLISH THEIR OWN POLITICAL PARTIES OR OTHER POLITICAL ORGANIZATIONS. THIS INCLUDES THE RIGHT OF SUCH CITIZENS, PARTIES AND ORGANIZATIONS TO UNIMPEDED ACCESS TO THE MEDIA; AND THE RIGHT TO A TOLERANT ATMOSPHERE CONDUCIVE TO THE FREE AND OPEN CONDUCT OF POLITICAL CAMPAIGNING.

OUR PROPOSAL WOULD ALSO PROVIDE FOR THE PRESENCE OF OBSERVERS. WE NOTE WITH FAVOR THAT OBSERVERS HAVE BEEN PERMITTED TO VIEW ELECTIONS BEING HELD IN CENTRAL AND

EASTERN EUROPE AND IN THE SOVIET UNION IN THE PAST FEW MONTHS. IN MOST INSTANCES, GOVERNMENTS WELCOMED THESE OBSERVERS BY PROVIDING THEM ACCESS TO POLLING SITES, ORGANIZING MEETINGS WITH ELECTION OFFICIALS AND PERMITTING THEM TO TRAVEL FREELY. WE BELIEVE THIS HAS BEEN A POSITIVE CONTRIBUTION TO THE SPIRIT OF OPENNESS WHICH CHARACTERIZED MOST OF THESE ELECTIONS. THE PRESENCE OF INTERNATIONAL OBSERVERS ALSO HELPED REASSURE POPULATIONS THAT THEIR ELECTIONS WOULD BE DIFFERENT FROM THOSE OF THE PAST FIVE DECADES.

UNFORTUNATELY, THERE WERE EXCEPTIONS TO THIS SPIRIT OF OPENNESS. WE HAVE ALREADY PRIVATELY EXPRESSED OUR DISAPPROVAL TO THE GOVERNMENT INVOLVED. WE HOPE THESE DENIALS WERE INADVERTENT ABERRATIONS AND THAT A CSCE ASSERTION IN SUPPORT OF OBSERVERS WILL ENCOURAGE A FREER ATMOSPHERE IN THE FUTURE.

OUR PROPOSAL TO DEVELOP A DEMOCRATIC ELECTORAL PROCESS, WHICH WE THIS AFTERNOON HAVE HIGHLIGHTED, IS AN INTEGRAL PART OF A LARGER WHOLE IN THE CSCE CONTRIBUTION TOWARD THE STRENGTHENING OF THE HUMAN DIMENSION.

MR. CHAIRMAN, THE HOLDING OF ELECTIONS ALONE DOES NOT SECURE HUMAN RIGHTS. FOR THAT, THE CONSOLIDATION OF THE RULE OF LAW IS REQUIRED.

IT IS SAFE TO SAY THAT AT NO TIME IN RECENT HISTORY HAVE THE PEOPLES OF EUROPE SENT SO CLEAR A MESSAGE TO THEIR GOVERNMENTS THAT POLITICAL OPPRESSION AND ABUSE OF POWER WILL NO LONGER BE TOLERATED. NOR HAS IT EVER BEEN SO CLEARLY EVIDENT THAT BOTH THE CITIZENS AND THE GOVERNMENT SHARE A RESPONSIBILITY FOR ENSURING CIVIL PEACE AND CIVIL RIGHTS. TOGETHER, THE PEOPLE AND THEIR GOVERNMENTS MUST CREATE POLITICAL CULTURES WHERE DIVERSITY MAY FLOURISH AND WHERE PEACEFUL POLITICAL OPPOSITION IS VIEWED AS A SAFEGUARD -- AND NOT A THREAT -- TO PREVAILING AUTHORITY. THE RULE OF LAW MEANS A SOCIETY GOVERNED BY DEMOCRATIC VALUES -- NOT GOVERNED BY THE ARBITRARY RULE OF POWERFUL MEN, NOR THE VIOLENT RAMPAGE OF THE DISSATISFIED.

THERE ARE A NUMBER OF BASIC PRINCIPLES THAT FORM AN INTEGRAL PART OF THE RULE OF LAW IN A DEMOCRATIC STATE. WE HAVE ALREADY REFERRED TO THE PRINCIPLE OF POLITICAL PLURALISM AND REPRESENTATIVE DEMOCRACY. THEN THERE IS THE PRINCIPLE OF RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS. THE THIRD INDISPENSABLE PRINCIPLE THAT LOGICALLY FOLLOWS IS THE UNDERSTANDING THAT THE EXERCISE OF ALL GOVERNMENTAL POWER MUST HAVE A BASIS IN LAW IN A FRAMEWORK OF PRECISE LIMITS THAT ARE UNIVERSALLY KNOWN AND ACCEPTED BY THE PEOPLE AND THE AUTHORITY ALIKE. THE PRINCIPLE OF POLITICAL LEGITIMACY REQUIRES THAT POWER BE EXERCISED THROUGH A PROCESS THAT IS OPEN AND DEMOCRATIC, CONSISTENT

WITH PREEXISTING CONSTITUTIONAL AND LEGAL NORMS. A VITAL ELEMENT OF THIS PRINCIPLE IS THE ASSURANCE THAT THERE EXIST EFFECTIVE LEGAL REMEDIES TO CHALLENGE THE ABUSE OR MISUSE OF POWER. ALL OF THESE PRINCIPLES ARE THE PILLARS UPON WHICH THE RULE OF LAW IN A DEMOCRATIC STATE STANDS. THEY COMPLEMENT AND STRENGTHEN EACH OTHER.

IT IS, OF COURSE, ONE THING TO ARTICULATE GENERAL PRINCIPLES; IT IS QUITE ANOTHER TO MAKE THEM SPECIFIC AND, THEREFORE, USEFUL. IT IS AT THIS COPENHAGEN CONFERENCE THAT THE CSCE CAN ASSOCIATE ITSELF WITH THE NEW DEMANDS FOR FREEDOM, THE RULE OF LAW AND POLITICAL DEMOCRACY IN WAYS THAT ARE LOFTY AND CONCRETE.

WE CAN ASSERT WITH EVEN GREATER CLARITY THE PRINCIPLES THAT MUST GUIDE TRULY DEMOCRATIC GOVERNMENTS. THIS CLARITY IS OF PARTICULAR IMPORTANCE FOR IT WILL PROVIDE GUIDANCE TO GOVERNMENTAL AUTHORITIES AND EDUCATORS WHO HAVE TO TRANSLATE THE COMMITMENTS INTO PRACTICE AND INTO LANGUAGE ALL CAN UNDERSTAND AND ACT UPON.

THE IMPRESSIVE SUPPORT GIVEN THE PROPOSAL WHOSE SPONSORSHIP WAS LED BY FRANCE, THE UNITED KINGDOM AND IRELAND IS EVIDENCE THAT THERE IS AN EVOLVING CONSENSUS HERE IN AGREEMENT WITH THAT OBJECTIVE.

THIS GIVES MY GOVERNMENT CONFIDENCE THAT INSTEAD

OF PLATITUDES OR REPETITIONS OF EXISTING AGREEMENTS, WE WILL CARRY FORWARD THE SPIRIT AND THE DECLARATIONS NECESSARY TO IDENTIFY ALL OF EUROPE WITH THE ASPIRATIONS OF OUR EXPECTANT PEOPLES. THE DECISION IS OURS AND WE WILL BE JUDGED BY IT. ITS SYMBOLISM WILL NOT BE LOST ON THE WORLD.

TOGETHER, WE CAN BE SEEN TO LAY THE FOUNDATION FOR A EUROPE IN WHICH HUMAN RIGHTS, DEMOCRACY AND THE RULE OF LAW INSPIRE ALL PEOPLES AND ALL STATES. THERE CAN BE NO GREATER ASSURANCE OF SECURITY, STABILITY AND PEACE.

WE HAVE TRAVELLED FAR AND WELL, MR. CHAIRMAN, BUT WE STILL HAVE A LONG WAY TO GO TO ASSURE HUMAN DIGNITY FOR ALL PEOPLES. LET US TRAVEL TOGETHER. THERE IS STRENGTH IN THAT UNITY. THANK YOU.

PLENARY REMARKS BY THE HONORABLE MAX M. KAMPELMAN

HEAD OF THE U.S. DELEGATION

TO THE

COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION

PLENARY, JUNE 22, 1990

MR. CHAIRMAN:

WE CAN ALL AGREE THAT THE PROTECTION OF MINORITY RIGHTS PRESENTS A MAJOR CHALLENGE TO THE CSCE STATES, ONE THAT DOES NOT LEND ITSELF TO A FACILE ANSWER. GOVERNMENTS COULD BECOME PART OF THE ANSWER OR PART OF THE PROBLEM. MY GOVERNMENT IS CONVINCED THAT THE SPIRIT AND THE LETTER OF THE CSCE COMMITMENTS WE ALREADY HAVE UNDERTAKEN REQUIRE US TO BECOME PART OF THE ANSWER.

WE MUST NOW AND AFTER COPENHAGEN INTENSIFY OUR WORK TO CONTRIBUTE TO A BROADER PROBLEM-SOLVING EFFORT. THE COMPLEXITY OF THIS ISSUE IS IMMENSE. OUR WORK WILL LEAD US ACROSS THE ENTIRE SPECTRUM OF CSCE.

THE UNITED STATES DELEGATION REPRESENTS ONE OF THE WORLD'S LARGEST DEMOCRACIES. WE ARE ALSO ONE OF THE WORLD'S LARGEST MULTI-ETHNIC SOCIETIES. THIS DOES NOT QUALIFY US TO PREACH ON THE SUBJECT. I AM ALSO NOT SUGGESTING THAT THE AMERICAN EXPERIENCE CAN BE AUTOMATICALLY TRANSPLANTED INTO THE SOIL OF OTHER LANDS WITH CULTURES, POLITICAL TRADITIONS AND HISTORIES QUITE DIFFERENT FROM OUR OWN. BUT WE DO HAVE A DISTINCTIVE NATIONAL EXPERIENCE -- SOME OF IT A SOURCE OF PRIDE, SOME OF IT TRAGIC -- WHICH CAN CONTRIBUTE TO OUR DELIBERATIONS.

THE U.S. EXPERIENCE OF TWO HUNDRED YEARS DOES DEMONSTRATE THAT ANY SOCIETY PROFESSING TO BASE ITSELF ON DEMOCRATIC PRINCIPLES MUST NOT ONLY HEED THE WILL OF THE MAJORITY, VITAL AS THAT IS. IF IT IS TO REMAIN TRUE TO ITS MOST FUNDAMENTAL DEMOCRATIC VALUES, IT MUST ALSO LISTEN TO THE VOICES OF THE MINORITIES IN ITS MIDST.

MR. CHAIRMAN, I AM REMINDED OF A QUOTATION BY AN EMINENT AMERICAN SPECIALIST IN INDIAN LAW AND A CLOSE FRIEND OF MINE, THE LATE FELIX COHEN, WHO LIKENED THE FATE OF INDIANS TO THAT OF THE MINERS' CANARY. COAL MINERS WOULD TAKE A CAGED CANARY WITH THEM DOWN INTO THE MINE SHAFTS. IF THE IMPRISONED CANARY EXPIRED FROM LACK OF OXYGEN, THE MINERS KNEW THAT THEY, TOO, WERE DOOMED, UNLESS THEY TURNED BACK. THE AUTHOR USED THE SIMILE TO ARGUE FOR THE CONSTITUTIONAL RIGHTS OF AMERICAN INDIANS, WHO, SOMEWHAT LIKE THE JEWS OF

EUROPE, WERE AN IMPERILED MINORITY. IF MINORITIES ARE NOT PROTECTED, HE REASONED, THEN SOONER OR LATER, EVERYONE COULD BE ENDANGERED AND SOCIETIES COULD SUFFER AN IRREPARABLE LOSS. COHEN PUBLISHED HIS VIEWS AT A TIME WHEN EUROPE AND THE WORLD WERE EMERGING FROM THE DEVASTATION OF A HOT WAR, BROUGHT ON BY A POISONOUS ATMOSPHERE OF HOSTILE NATIONALISM. TODAY, ALTHOUGH WE LIVE IN A DIFFERENT WORLD, MANKIND'S CAPACITY FOR EVIL HAS, UNFORTUNATELY, NOT DIMINISHED. OUR ABILITY TO DESTROY HAS GREATLY INCREASED. AS THE ICE OF THE COLD WAR RECEDES, WE MORE VIVIDLY SEE STILL GLOWING EMBERS OF COMMUNAL AND ETHNIC TENSION. THEY HAVE BEEN EXPOSED AND ARE READY TO BE FANNED BY THE IRRESPONSIBLE.

THE DOMINANT THEME OF OUR NEW ERA, HOWEVER, IS ONE OF LIBERTY. THE PEOPLES OF EUROPE HAVE CLEARLY AND DRAMATICALLY CHOSEN TO PURSUE DEMOCRACY AND COOPERATION. IT IS THE PATH OF JUSTICE, SECURITY AND PEACE ENVISIONED IN THE HELSINKI FINAL ACT, THAT IS THE EVOLVING DOMINANT THEME OF OUR DAY. NOW, THEREFORE, IS PRECISELY THE TIME WHEN GOVERNMENTS AND CITIZENS ALIKE MUST ACT WITH RESTRAINT AND RESPECT FOR THE HUMAN RIGHTS OF THEIR OWN CITIZENS AND THOSE OF THEIR NEIGHBORS. NOW IS WHEN REASON AND DIALOGUE MUST PREVAIL OVER PREJUDICE AND VIOLENCE. NO STATE TODAY CAN CLAIM IT IS WITHOUT ROOM FOR IMPROVEMENT IN THE AREA OF MINORITY RIGHTS. NO SOCIETY CAN CLAIM TO BE RID OF PREJUDICE, INCLUDING MY OWN.

THE SITUATION TODAY IN A NUMBER OF PARTICIPATING STATES IS CAUSE FOR OUR SHARED CONCERN. IN SOME AREAS, CONDITIONS ARE VOLATILE AND EVEN POTENTIALLY EXPLOSIVE. THIS IS PARTICULARLY TRUE IN THE COUNTRIES NEWLY ENGAGED IN DEMOCRACY-BUILDING AND REFORM, FOR THESE ARE PRECISELY THE COUNTRIES WHERE UNTIL VERY RECENTLY THERE HAVE BEEN FEW SAFEGUARDS FOR RIGHTS OF ANY KIND, FEW PRECEDENTS FOR THE PEACEFUL RESOLUTION OF DISPUTES, FEW RELIABLE MEANS FOR THE REDRESS OF GRIEVANCES, AND LITTLE BELIEF IN THE POLITICAL LEGITIMACY OF STATE AUTHORITIES.

THE REAPPEARANCE OF ANTI-SEMITISM AND THE GROWTH OF OTHER FORMS OF ETHNIC, RACIAL, AND RELIGIOUS HATRED ARE TERRIBLE THROW-BACKS THAT HAVE NO PLACE IN CIVILIZED SOCIETY.

ETHNIC HATREDS ALREADY HAVE TAKEN A HEAVY TOLL IN HUMAN LIFE. IN ROMANIA, FOR EXAMPLE, WE ARE DEEPLY CONCERNED ABOUT REPORTS THAT A NUMBER OF HATE-MONGERING ORGANIZATIONS AND ELEMENTS, WHICH ADVOCATE THE BRUTAL SUPPRESSION OF THE RIGHTS OF THE HUNGARIAN MINORITY, ARE INCREASINGLY ACTIVE. WE URGE THE ROMANIAN GOVERNMENT TO TAKE DECISIVE STEPS TO CURB THE VIOLENT ACTIVITIES OF THOSE WHO ARE PEDDLERS OF NATIONAL PREJUDICE. WE ASK THAT GOVERNMENT, WHICH SEEKS TO ASSURE US OF ITS DEMOCRATIC INTENTIONS, TO REMOVE THE SHROUD OF SECRECY AND RELEASE THE RESULTS OF ITS FACT FINDING STUDIES ON THE RECENT BLOODY

ETHNIC CONFRONTATIONS IN THAT COUNTRY. IT IS THE WAY FOR US TO GAIN CONFIDENCE IN THAT GOVERNMENT'S STATED INTENTIONS TO BE GUIDED BY THE SPIRIT OF CSCE.

WE WELCOME THE FORMAL DECISION TAKEN BY THE FEDERAL PRESIDENCY OF YUGOSLAVIA TO LIFT THE STATE OF EMERGENCY IN KOSOVO. BUT THE PROBLEMS THERE WILL NOT BE RESOLVED UNTIL THERE IS A GENUINE DIALOGUE WITH DEMOCRATIC ALBANIAN ORGANIZATIONS IN THE AREA. WE URGE THE GOVERNMENT OF THAT COUNTRY TO APPRECIATE THAT THE SEEMINGLY NEVER-ENDING CYCLE OF VIOLENCE AND HUMAN RIGHTS ABUSES IN THE PROVINCE OF KOSOVO ARE MATTERS OF GREAT CONCERN TO MANY OF US.

ETHNIC VIOLENCE NOT ONLY IS INCALCULABLY COSTLY IN TERMS OF HUMAN LIFE, GREAT SOCIAL AND ECONOMIC DAMAGE IS DONE AS WELL. THE SOVIET UNION AND ITS PEOPLE ARE TRAGICALLY AWARE OF THE PAIN CAUSED BY ETHNIC CONFLICT AND VIOLENCE IN SO MANY PARTS OF THAT VAST AND PROUD COUNTRY. THE REPORTED HUNDREDS OF THOUSANDS OF "INTERNAL REFUGEES" NOW SADLY OVERCROWDING AND OVER-BURDENING MOSCOW AND OTHER METROPOLITAN AREAS ARE DEPRESSING REMINDERS OF THE "VICTIMS" WE CAN NOT FORGET OR IGNORE. THEY SUFFER THROUGH NO FAULT OF THEIR OWN.

WHAT IS NEEDED IN AREAS DEEPLY AFFECTED BY ETHNIC STRIFE ARE MEANS FOR ENSURING CIVIL LIBERTIES FOR ALL

PEOPLES. IT IS ATTAINABLE FOR ALL PEOPLES BECAUSE HUMAN DIGNITY IS AN ASPIRATION OF ALL PEOPLES. MINORITY RIGHTS MUST BECOME INTEGRAL TO ALL OF US BECAUSE OF ITS PRACTICAL INDISPENSABILITY AND BECAUSE MANY OF US, AT ANY TIME, IN ANY PLACE, MAY FIND OURSELVES IN THE MINORITY. IT MUST BECOME A PRINCIPLE ACCEPTED AND CHAMPIONED BY THE AUTHORITIES, BY THE MINORITIES, AND BY THE MAJORITY POPULATIONS ALIKE.

WE RECOGNIZE THAT THE PROTECTION OF THE RIGHTS OF MINORITIES WILL NOT BE EASY TO ACCOMPLISH, GIVEN THE FACT THAT TOLERANT AND DEMOCRATIC POLITICAL CULTURES HAVE YET TO EVOLVE IN SOME STATES. BUT WE HAVE ALL LEARNED THAT TIME NO LONGER MOVES SLOWLY AND WE ALL MUST WORK TOWARD THE DAY, PERHAPS NOT TOO DISTANT, WHEN ETHNIC IDENTIFICATIONS ARE SYMBOLS OF SOCIETAL MATURITY AND CULTURAL ENRICHMENT, RATHER THAN SLURS HURLED IN THE STREETS, OR STIGMATIZING LABELS IN INTERNAL PASSPORTS MAKING THE BEARER VULNERABLE TO DISCRIMINATION.

RESOLVING THESE DIFFICULT ISSUES IS A MORAL IMPERATIVE AS WELL AS SOUND, DEMOCRATIC NATION-BUILDING. THOSE STATES WHICH TURN A BLIND EYE TO THESE REAL PROBLEMS, PERMIT LOCAL AND EVEN CENTRAL AUTHORITIES TO IGNORE FESTERING LOCAL PROBLEMS, PERPETUATE ABUSES, AND EXACERBATE MINORITY TENSIONS, DO SO AT THEIR PERIL. STATES THEREBY ACT AS ACCESSORIES TO PREJUDICE AND VIOLENCE, NOT AS LEGITIMATE PROTECTORS OF LAW AND ORDER.

MANY CSCE MEMBERS ARE ENGAGED IN MAJOR CONSTITUTION-BUILDING EXERCISES. THE TIME TO LAY A SOUND CONSTITUTIONAL FOUNDATION FOR ENSURING THE PROTECTION OF MINORITY RIGHTS IS NOW. ESTABLISHING AND CONSOLIDATING A DEMOCRATIC STRUCTURE OF GOVERNMENT, RULES OF GOVERNANCE THAT PLACE EFFECTIVE RESTRAINTS AGAINST ABUSES OF GOVERNMENTAL POWER, GUARANTEES OF EQUAL PROTECTION OF THE LAW TO ALL CITIZENS -- ALL THESE FORM THE INDISPENSABLE BASIS FOR PROTECTING MINORITIES AND MAXIMIZING THE CONTRIBUTIONS THEY MAKE TO SOCIETY.

FAILING IN THAT FUNDAMENTAL TASK, WE LEAVE MINORITY GROUPS IN A PERMANENTLY PRECARIOUS SITUATION, SUSCEPTIBLE TO CHANGING POLITICAL WINDS, SUSPICIOUS AND FEARFUL OF GOVERNMENT, AND MORE LIKELY TO TAKE MATTERS INTO THEIR OWN HANDS.

A SENSIBLE AND CONSTRUCTIVE AND PROVEN METHOD FOR PROTECTING NATIONAL, RELIGIOUS, AND ETHNIC MINORITIES WITHIN A COUNTRY IS GRANTING THEM CONSIDERABLE LOCAL AUTONOMY, WHILE INCLUDING THEM, ON AN EQUAL BASIS, IN AN OVERALL POWERSHARING COOPERATIVE STRUCTURE. THE PRINCIPLE GUIDING MY COUNTRY, FEDERALISM -- THE DIVISION OF POWER AMONG THE NATIONAL, STATE AND LOCAL GOVERNMENTS -- HAS PROVED ITS METTLE OVER MORE THAN 200 YEARS OF OUR CONSTITUTIONAL EXPERIENCE, AND IN THE NATIONAL EXPERIENCE OF MANY OTHER STATES. THIS PRINCIPLE CAN HELP LAY A SECURE LEGAL AND

POLITICAL FOUNDATION FOR AMICABLE RELATIONSHIPS AMONG VARIOUS POPULATIONS, WHATEVER FORM IT MAY TAKE OR NAME IT MAY ASSUME.

DEMOCRACIES, HOWEVER CONFIGURED, REQUIRE FREE AND VIGOROUS PARTICIPATION IN THE POLITICAL PROCESS OF ALL CITIZENS -- IRRESPECTIVE OF THEIR ETHNIC, NATIONAL, OR RELIGIOUS HERITAGE. THIS ENABLES INDIVIDUALS TO FORM MINORITY GROUPS, TO FORM POLITICAL ORGANIZATIONS, BUILD BROADER-BASED COALITIONS OF SUPPORT, ENTER INTO POLITICAL ALLIANCES, AND RELY ON THE BALLOT BOX AS A MEANS OF POLITICAL SELF-EXPRESSION. OPEN, INCLUSIVE, DEMOCRATIC SYSTEMS FOSTER HABITS OF CIVIC RESPONSIBILITY, AND THE FEELING THAT AN INDIVIDUAL CITIZEN OR A MINORITY GROUP HAS A DIRECT STAKE IN THE BETTERMENT OF SOCIETY AS A WHOLE. IN CONTRAST, DISENFRANCHISEMENT AND DISCRIMINATION LEAD TO DESTRUCTIVE FEELINGS OF ALIENATION.

GOVERNMENTS CAN ENLIST POWERFUL ALLIES IN THE IMPORTANT TASK OF DEMOCRACY-BUILDING. LARGE NUMBERS OF NON-GOVERNMENTAL ORGANIZATIONS ARE AVAILABLE TO HELP. MANY OF THE EMERGING DEMOCRACIES IN EUROPE CAN TESTIFY TO THE ASSISTANCE RECEIVED FROM TRADE UNIONS, THE CHURCHES, POLITICAL PARTIES, CIVIC ORGANIZATIONS. THESE INSTITUTIONS FLOURISH UNDER DEMOCRATIC PLURALISM, TOLERANCE AND THE CREATION OF CIVIL SOCIETIES. THEY REPRESENT POLITICAL PLURALISM IN ACTION.

IN THIS REGARD, WE HAVE A RESPONSIBILITY AND ARE PLEASED TO MENTION AND APPLAUD THE ROLES PLAYED BY RELIGIOUSLY-MOTIVATED INDIVIDUALS AND RELIGIOUS ORGANIZATIONS IN THE TRANSITIONS TO DEMOCRACY THAT HAVE TAKEN PLACE IN CENTRAL AND EASTERN EUROPE OVER THE PAST YEAR. THESE INDIVIDUALS AND ORGANIZATIONS, EXERCISING THE FUNDAMENTAL RIGHT OF RELIGIOUS LIBERTY, HAVE CONTRIBUTED VIGOROUSLY TO THE BUILDING OF CIVIL SOCIETY IN THE NEW DEMOCRACIES. RELIGIOUS VALUES AND RELIGIOUS GROUPS AND ORGANIZATIONS CAN PLAY A KEY ROLE IN THE DEFENSE OF FUNDAMENTAL HUMAN RIGHTS THROUGH THE RULE OF LAW.

INDEED, IN THIS SPIRIT, AS OUR GOVERNMENTS GO ABOUT THE NEVER-ENDING TASK OF NATION-BUILDING -- FOR TRUE DEMOCRACIES RECREATE THEMSELVES EACH DAY IN CONSCIOUS ACTS OF JUSTICE -- WE WOULD ALL DO WELL TO RECALL THE WORDS IN THE BIBLE: "TRULY, I SAY TO YOU, AS YOU DID IT TO ONE OF THE LEAST OF THESE MY BRETHREN, YOU DID IT TO ME."

MR. CHAIRMAN, MINORITIES OFTEN ARE THE LEAST OF THOSE AMONG US IN NUMBERS AND IN STRENGTH. GOVERNMENTS BEAR A SPECIAL RESPONSIBILITY FOR THEIR PROTECTION. HISTORICALLY, GOVERNMENTS HAVE NOT ALWAYS LIVED UP TO THAT RESPONSIBILITY. FROM THE "TRAIL OF TEARS" OF THE CHEROKEE IN MY COUNTRY, TO THE DEATH CAMP DEPORTATIONS OF EUROPE'S JEWS, TO THE FORCED EXPULSIONS OF THE MESKHETIAN TURKS, AND TO THE CONTINUOUS AND EVER-PRESENT DISCRIMINATION AGAINST

GYPSIES, WE CAN TRACE CRUEL INJUSTICES. THEIR LEGACY CONTINUES TO INFLICT PAIN ON SUCCEEDING GENERATIONS. CONTEMPORARY GOVERNMENTS BEAR A HEAVY RESPONSIBILITY TO ADDRESS SUCH ISSUES WITH RESPECT AND COMPASSION.

I HAVE DWELT THIS MORNING UPON SOME OF THE PROBLEMS THAT WE ASSOCIATE WITH FULFILLING OUR CSCE COMMITMENTS TOWARD MINORITIES. I FOCUSSED ON THE PROBLEMS BECAUSE THEY ARE SERIOUS, THEY ARE PRESSING, AND THEY HAVE THE POTENTIAL TO EXPLODE INTO DESTABILIZING VIOLENCE. IN SOME WAYS, AS OUR EAST-WEST TENSIONS GRADUALLY WITHER AWAY, IT IS THE ETHNIC AND MINORITY TENSIONS THAT REPRESENT AN EXPLOSION READY TO HAPPEN. CSCE CANNOT RESPONSIBLY FAIL TO MAKE A GENUINE EFFORT IN THIS MEETING AND THEREAFTER TO CONTRIBUTE TO THEIR PEACEFUL SOLUTION.

SUCH A SOLUTION WOULD BE ENRICHING TO US ALL. MINORITIES WOULD NO LONGER BE SEEN AS PEOPLES POSING VEXING PROBLEMS. ON THE CONTRARY, WHEN MINORITIES LIVE AMONGST US, WHEN THEY STRENGTHEN THE FABRIC OF OUR SOCIETIES BY FULLY CONTRIBUTING TO THEM, THEY HELP US ALL TO KNOW THE SPLENDOR OF DIVERSITY. THEY SHOW US WITH CRYSTAL CLARITY THE ESSENCE OF OUR COMMON HUMANITY.

LET ME CLOSE MY REMARKS ABOUT PLURALISM WITH A PARABLE. THERE ONCE, I WAS TOLD, WAS A KING WHO OWNED A MAGNIFICENT DIAMOND. ONE DAY, A CARELESS SERVANT DROPPED THE KING'S

DIAMOND AND SCRATCHED IT BADLY. THE KING WAS DISTRAUGHT, AND CALLED IN ALL OF THE STONE-CUTTERS OF THE KINGDOM, COMMANDING THEM TO RE-POLISH THE DIAMOND AND RESTORE ITS BEAUTY. THEY ALL FAILED; THE SCRATCH REMAINED. SOME WEEKS LATER, A NEW STONE-CUTTER CAME TO THE KINGDOM. THE KING PLEADED WITH HIM TO REPAIR HIS SCRATCHED DIAMOND. THE STONE-CUTTER TOOK A DIFFERENT APPROACH: ON THE SURFACE OF THE DIAMOND, HE CARVED A ROSE AND BY THE CUNNING OF HIS ART, HE CONTRIVED TO MAKE THE DEEPEST PART OF THE SCRATCH THE STEM OF THE ROSE.

THE PROTECTION OF MINORITY RIGHTS IS A MULTIFACETED QUESTION. BY THEIR ACTIONS, GOVERNMENTS CAN DEEPEN THE FISSURES AMONG PEOPLES, OR THEY CAN HELP SHAPE SOLUTIONS THAT ENHANCE AND BEAUTIFY THEIR SOCIETIES AS A WHOLE. THE PROGRESS WE ACHIEVE IN CSCE ON MINORITY RIGHTS ISSUES WILL REFLECT THE CHOICES WE MAKE.

THANK YOU.

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STATEMENT OF THE DELEGATION OF
THE UNITED STATES OF AMERICA
by Jane S. Fisher

Subsidary Working Body B
26 June 1990

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MR. CHAIRMAN, THOSE OF US WHO HAVE HAD THE OPPORTUNITY TO ATTEND SOME OF THE MEETINGS SPONSORED BY THE PARALLEL CONFERENCE HAVE BEEN REMINDED ONCE AGAIN OF THE VITALITY AND FRESH PERSPECTIVE NON-GOVERNMENTAL ORGANIZATIONS CAN CONTRIBUTE TO THE CSCE PROCESS. MANY DELEGATIONS SUCH AS OURS HAVE MADE A HABIT OF MEETING WITH NGO REPRESENTATIVES BEFORE, DURING AND AFTER CSCE MEETINGS. WE CONSIDER OURSELVES ACCOUNTABLE TO THEM, AS WE ARE TO THE AMERICAN PEOPLE WHOM THEY REPRESENT. THEY HAVE GIVEN US SOME OF OUR BEST IDEAS CONCERNING EXISTING AND FUTURE CSCE COMMITMENTS -- AND THEY HOLD US TO HIGH STANDARDS.

THE PARALLEL CONFERENCE IS AN EXCELLENT EXAMPLE OF WHAT THE FRAMERS OF THE HELSINKI FINAL ACT HAD IN MIND WHEN THEY FORMULATED PRINCIPLE IX, WHICH AFFIRMS, IN PART, THE POSITIVE ROLE TO BE PLAYED IN THE HELSINKI PROCESS BY "GOVERNMENTS, INSTITUTIONS, ORGANIZATIONS, AND PERSONS" IN ACHIEVING MUTUAL UNDERSTANDING AND COOPERATION BETWEEN STATES.

IN THE PAST, MEMBERS OF NON-GOVERNMENTAL ORGANIZATIONS DEVOTED TO MONITORING IMPLEMENTATION OF THE HELSINKI ACCORDS IN CERTAIN SIGNATORY STATES WERE REPRESSED AND EVEN IMPRISONED FOR SUCH ACTIVITY. NOWADAYS, MANY OF THESE FORMER POLITICAL PRISONERS AND VICTIMS OF REPRESSION HOLD MAJOR ELECTIVE OFFICES AT THE NATIONAL, REPUBLIC, OR LOCAL LEVEL. THESE CHANGES ARE EXTREMELY WELCOME.

NEVERTHELESS, IMPEDIMENTS TO CITIZENS JOINING TOGETHER TO CONTRIBUTE TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS STILL EXIST. DOMESTIC HUMAN RIGHTS ADVOCACY GROUPS HAVE SUFFERED BUREAUCRATIC BARRIERS TO "KNOWING AND ACTING UPON THEIR RIGHTS." WHEN SUCH GROUPS SEEK TO PROMOTE PUBLIC ACTIVITIES,

OFFICIALS SAY THEY HAVE TO BE "REGISTERED" WITH THE STATE. WHEN THEY SEEK TO REGISTER, THEY ARE TOLD TO WAIT FOR THE NEW LAW ON REGISTRATION. REPORTEDLY, SOME MEMBERS OF PUBLIC MONITORING GROUPS HAVE BEEN ATTACKED BY UNKNOWN ASSAILANTS. ARE THESE INCIDENTS SIMPLY COINCIDENCES OR ARE THEY CONNECTED WITH THE VICTIMS' HUMAN RIGHTS MONITORING ACTIVITIES?

WE BELIEVE LEGAL PROTECTIONS FOR CITIZENS WHO WISH TO FORM NON-GOVERNMENTAL GROUPS SHOULD BE IMPROVED. IN THIS WAY, SUCH GROUPS CAN MONITOR HUMAN RIGHTS, PUBLISH AND DISSEMINATE THEIR FINDINGS, AND SOLICIT, RECEIVE AND UTILIZE VOLUNTARY FINANCIAL CONTRIBUTIONS, INCLUDING FROM FOREIGN COUNTRIES. WE ALSO THINK IT IS ESSENTIAL THAT THESE GROUPS BE PERMITTED TO TRAVEL AS GROUP MEMBERS AND FREELY ASSOCIATE WITH OTHER HUMAN RIGHTS GROUPS -- DOMESTIC AND FOREIGN.

I REGRET TO NOTE THAT IN THE PAST FEW WEEKS ALONE, AS WE HAVE BEEN MEETING HERE, INDEPENDENT MONITORS SEEKING TO PROMOTE CIVIL SOCIETY IN ROMANIA REPORTEDLY HAVE BEEN ARRESTED IN THE AFTERMATH OF LAST WEEK'S VIOLENCE. WE HAVE REQUESTED ANY SPECIFIC INFORMATION ON THE IDENTITIES AND WHEREABOUTS OF THOSE ARRESTED.

LET US END ALL IMPEDIMENTS TO HUMAN RIGHTS MONITORING, AND PROMOTE FURTHER PROGRESS IN NGO CONTRIBUTIONS TO THE HELSINKI PROCESS. IN THIS CONNECTION, WE WERE PLEASED TO NOTE THE SOVIET DELEGATE MADAME TERESHKOVA'S RECENT STATEMENT SUGGESTING FURTHER PUBLIC MECHANISMS FOR VERIFICATION OF INTERNATIONAL TREATIES AND CONVENTIONS, AND FOR MULTILATERAL MONITORING.

MR. CHAIRMAN, WE HOPE THAT THE THIRD PHASE OF THE HUMAN DIMENSION MEETING IN MOSCOW WILL CONTRIBUTE AS MUCH TO NGO PARTICIPATION AND ACCESS AS THE COPENHAGEN AND VIENNA MEETINGS.

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STATEMENT OF THE DELEGATION OF
THE UNITED STATES OF AMERICA

by Jane S. Fisher

Subsidiary Working Body B
27 June 1990

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Once again I seem to be the only voice in this hall. But as we wait for what by delegation hopes will be an excellent document, I would like to turn again to what continues to be a very important aspect of this meeting: implementation review.

In the year since our meeting in Paris, we have witnessed dramatic progress in furthering the right to leave one's country -- either for emigration or for travel. As democracies have emerged in eastern and central Europe, many obstacles have been removed in just a few short months. Many once-formidable barriers to contacts between East and West, including the Berlin Wall, have crumbled. Families are being reunited, and official obstacles to bi-national marriages have virtually ceased to exist. This, of course, is a most welcome and long overdue development.

Despite the progress, both in numbers of emigrants and travelers, and in the removal of restrictive policies and practices, some caution is still in order. As long as impediments to the freedom of movement remain, we cannot afford to be complacent. That is why today, unfortunately, we cannot yet remove the issue of freedom of movement from our agenda.

In this connection, we welcome the proposal of Canada and others on the right to leave and return. This proposal addresses some key issues hindering human contacts, including national security restrictions. It also addresses continuing travel restrictions on family members of those who earlier left a country in an unauthorized manner.

The right to leave and return still must be codified into law in some participating states. We await its codification into law in all CSCE states and its full and fair implementation.

We are still troubled that some individuals continue to be denied -- some for many years -- the right to leave on the grounds of state secrecy. Others are denied this right because their families refuse to sign the required certificate on financial obligations.

While travel to and from the USSR is much freer, problems remain. Soviet citizens face bureaucratic impediments and sometimes visa denials. American citizens, some invited by the Soviet Academy of Sciences, have faced visa delays and denials. Americans attempting to travel to Lithuania, Latvia and Estonia have experienced similar difficulties over the past few months. Most recently, a number of Americans are reporting visa processing problems relating to their efforts to attend and perform in cultural festivals scheduled to begin shortly in Estonia and Latvia.

Finally, I would like to bring to your attention the plight of several thousand Armenian refugees, already granted refugee status by the United States, who have been told by Soviet officials they must return to Baku -- from which they fled during the pogroms. Soviet officials are still requiring that these Armenian refugees go back to Baku so as to obey the Soviet passport law which requires emigration requests to be filed at the place of permanent residence. We hope that Soviet authorities are taking steps to show some bureaucratic flexibility and alleviate the difficult situation of these refugees.

Now, Mr. Chairman, I would like, at this time, to address the issue of entry visas, keeping in mind, of course, the distinction between the right to leave one's country, on the one hand, and questions relating to entry into another country, on the other. This issue has been raised by distinguished members of the Polish delegation, including Foreign Minister Skubiszewski in his opening statement. I believe a fuller explanation of my country's policies and practices would be useful.

In U.S. visa practice, each visa is adjudicated on its own merits. It is the responsibility of the examining consular officer to conduct whatever investigation he or she believes may be necessary in order to satisfy himself or herself that an applicant has overcome the statutory presumption of immigrant intent and whether the applicant may be ineligible for the visa under any of the 34, albeit many rarely used, specific grounds of ineligibility set forth in the U.S. Immigration and Nationality Act.

We would like to assure the delegates here that the United States does not impose any numerical percentage limit on the number of non-immigrant visas that may be approved for Poles or persons of any other nationality. Moreover, under U.S. law, visa fees are fixed on a reciprocal basis to the maximum extent possible; they are not set according to the earning capacity of the individual visa applicants.

The United States does not have any policy in force which "assumes that every Polish tourist is going to work illegally in the United States." To the contrary, U.S. consular officers have an express statutory and regulatory duty to adjudicate each visa application on its individual merits.

The United States issued 75,000 non-immigrant visas to Poles last year. This number indicates the tremendous amount of work consular officers must perform. We regret the long lines and waiting time many Polish applicants have had to endure; we know that lines and waiting times in other East European capitals, as well as Moscow, are no shorter. But this does not justify reports we have heard that U.S. consular officials may not always take the time to explain U.S. policies in a thorough way. We would hope that our officials are always responsive and courteous in conducting their often difficult duties. And we are taking steps to improve the situation in our posts as the increased flow of people -- a positive sign of our progress in the CSCE -- has led to greater pressure on our consulates.

For example, such steps include special arrangements which have been made by our Embassy and the Polish Ministry of Foreign Affairs to facilitate the expeditious issuance of visas in cases involving humanitarian emergencies such as family deaths.

My Embassy has also eased clearance procedures for Poles travelling to the U.S. for business purposes, now making it possible to issue most business visas on a same day basis.

I would also note that our Embassy in Warsaw reports a continual drop in our adjusted refusal rate of tourist visas from November of 1989 when it was 86 percent to only 30 percent in June of this year. This improvement reflects the efforts we are currently undertaking and will continue to undertake to streamline our processing procedures.

PRESS STATEMENT

BY THE HONORABLE MAX M. KAMPELMAN

HEAD OF THE U.S. DELEGATION

TO THE

COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION

JUNE 28, 1990

"U.S. HAILS ADOPTION OF COPENHAGEN DOCUMENT AS HISTORIC"

LAST MAY, IN A COMMENCEMENT ADDRESS AT THE UNIVERSITY OF SOUTH CAROLINA, PRESIDENT BUSH IDENTIFIED FREE ELECTIONS, POLITICAL PLURALISM AND THE RULE OF LAW AS THE KEY CORNERSTONES OF EUROPE'S FREEDOM. THIS AFTERNOON, THE 35 NATIONS OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (CSCE) ADOPTED A DOCUMENT LAYING PRECISELY THAT FOUNDATION OF FREEDOM FOR ALL THEIR PEOPLES. THE UNITED STATES IS PROUD TO HAVE PLAYED A MAJOR ROLE IN THAT HISTORIC ACHIEVEMENT.

THE CSCE HAS NOW SOUGHT AND REACHED AN HISTORIC NEW CONSENSUS. THE WHOLE OF EUROPE IS NOW COMMITTED TO THE PATH OF DEMOCRACY AND TO THE ACHIEVEMENT OF A LASTING ORDER BASED ON JUSTICE, PEACE, SECURITY AND COOPERATION. THE COPENHAGEN DOCUMENT OF THE CSCE REPRESENTS THE FIRST DEFINITIVE FORMAL PROCLAMATION OF A EUROPE WHOLE AND FREE.

THE PROMISE OF THE 1975 HELSINKI ACCORDS NOW HAS BECOME A PROGRAM OF DEMOCRATIC ACTION. IN OUR VIEW, IT IS THE MOST SIGNIFICANT STEP FORWARD THAT THE CSCE HAS TAKEN SINCE THE INCEPTION OF THE HELSINKI PROCESS. OUR PROGRAM OF ACTION IS FAR-REACHING IN ITS SCOPE AND POLITICAL IMPLICATIONS, BUT IT IS ALSO CONCRETE AND ACHIEVABLE.

THIS PROGRAM OF ACTION HAS BEEN SHAPED AND EMBRACED BY OUR NATO ALLIES, THE SOVIET UNION, THE TRADITIONAL NEUTRAL AND NON-ALIGNED STATES, AND THE EMERGING DEMOCRACIES OF CENTRAL AND EASTERN EUROPE. IT BRINGS TOGETHER NATIONS LARGE AND SMALL AND OPENS THE HOUSE OF DEMOCRACY -- THE COMMONWEALTH OF FREE NATIONS WE HAVE SPOKEN ABOUT -- TO ALL OF EUROPE'S PEOPLES. TOGETHER, THE CSCE SIGNATORY NATIONS NOW STAND BEFORE OUR OWN PEOPLES AND BEFORE THE WORLD COMMUNITY ON THE SOLID GROUND OF DEMOCRATIC VALUES. TOGETHER, WE NOW MUST PUT OUR PROGRAM OF DEMOCRATIC ACTION TO WORK FOR OUR PEOPLES.

A BRIEF SUMMARY OF THE ELEMENTS OF THE COPENHAGEN FINAL DOCUMENT FOLLOWS:

THE COPENHAGEN FINAL DOCUMENT IS BUILT ON THE CENTRAL PREMISE THAT "PLURALISTIC DEMOCRACY AND THE RULE OF LAW ARE ESSENTIAL FOR ENSURING RESPECT FOR ALL HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS". THE DOCUMENT EXPRESSES THE SIGNATORIES' "DETERMINATION TO BUILD DEMOCRATIC SOCIETIES BASED ON FREE ELECTIONS AND THE RULE OF LAW." IN PARTICULAR, IT RECOGNIZES THE IMPORTANT INVOLVEMENT OF PRIVATE CITIZENS AND INSTITUTIONS, AS WELL AS GOVERNMENTS, IN THIS EFFORT.

ON THE SUBJECT OF DEMOCRACY AND THE RULE OF LAW, THE CSCE MEMBER STATES:

-- IDENTIFY THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AS ONE OF THE BASIC PURPOSES OF GOVERNMENT;

-- SET FORTH THE FUNDAMENTAL PRINCIPLES OF JUSTICE WHICH FORM THE BASIS OF THE RULE OF LAW IN A DEMOCRACY, INCLUDING --

THE INALIENABLE RIGHTS OF MAN

A REPRESENTATIVE GOVERNMENT, IN WHICH THE EXECUTIVE IS ACCOUNTABLE TO THE ELECTED LEGISLATURE OR THE ELECTORATE

THAT GOVERNMENT AND PUBLIC AUTHORITIES ARE DUTY BOUND TO COMPLY WITH THE CONSTITUTION AND ARE NOT ABOVE THE LAW

A CLEAR SEPARATION BETWEEN THE STATE AND POLITICAL PARTIES, IN PARTICULAR, THAT POLITICAL PARTIES WILL NOT BE MERGED WITH THE STATE (WHAT WE IN THE UNITED STATES CALL THE ESTABLISHMENT CLAUSE)

THAT THE MILITARY AND THE POLICE ARE TO BE UNDER THE CONTROL OF, AND ACCOUNTABLE TO, THE CIVIL AUTHORITIES

INDEPENDENT JUDICIARIES

EQUAL PROTECTION OF THE LAWS

THE RIGHT OF REDRESS OF GRIEVANCES

THE PRESUMPTION OF INNOCENCE

AND DUE PROCESS RIGHTS, AMONG OTHERS.

ON THE SUBJECT OF FREE AND FAIR ELECTIONS, THE CSCE MEMBER STATES:

-- DECLARE THAT THE WILL OF THE PEOPLE, EXPRESSED THROUGH PERIODIC AND GENUINE ELECTIONS, IS THE BASIS OF AUTHORITY AND LEGITIMACY OF GOVERNMENT AND SET FORTH THE PRACTICAL ELEMENTS CONSTITUTING FREE AND FAIR ELECTIONS;

-- COMMIT THEMSELVES TO RESPECT THE RIGHT OF INDIVIDUALS AND GROUPS TO FREELY ESTABLISH POLITICAL PARTIES AND ORGANIZATIONS AND ENABLE THEM TO COMPETE WITH EACH OTHER ON A BASIS OF EQUAL TREATMENT BEFORE THE LAW AND BY THE AUTHORITIES;

-- RECOGNIZE THAT THE PRESENCE OF OBSERVERS, BOTH FOREIGN AND DOMESTIC, CAN ENHANCE THE ELECTORAL PROCESS FOR STATES HOLDING ELECTIONS.

ON THE SUBJECT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, THE CSCE MEMBER STATES:

-- REAFFIRM THEIR INTERNATIONAL OBLIGATIONS ON THE RIGHTS TO FREEDOM OF EXPRESSION AND COMMUNICATION, PEACEFUL ASSEMBLY AND DEMONSTRATION, ASSOCIATION, THOUGHT, CONSCIENCE AND RELIGION, MOVEMENT AND PROPERTY;

AND, IN THAT CONTEXT

-- COMMIT THEMSELVES TO PROHIBIT AND TAKE EFFECTIVE MEASURES AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, INCLUDING PSYCHIATRIC ABUSE, WHICH ARE DEEMED WHOLLY UNJUSTIFIED UNDER ALL CIRCUMSTANCES;

-- UNDERSCORED THAT IN A DEMOCRACY ANY RESTRICTIONS ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS MUST BE TRULY EXCEPTIONAL AND CONSISTENT WITH THE STATE'S INTERNATIONAL OBLIGATIONS;

-- AND, CONFIRM THAT, EVEN IN A STATE OF PUBLIC EMERGENCY, ANY DEROGATIONS FROM SUCH OBLIGATIONS MUST STRICTLY REMAIN WITHIN THE LIMITS PROVIDED FOR BY INTERNATIONAL LAW;

-- FACILITATE HUMAN CONTACTS, ESPECIALLY IN CASES OF HUMANITARIAN NEED;

ON THE SUBJECT OF MINORITY RIGHTS, THE CSCE MEMBER STATES:

-- RECOGNIZE THAT THE QUESTIONS RELATING TO NATIONAL MINORITIES CAN ONLY BE SATISFACTORILY RESOLVED IN A DEMOCRATIC POLITICAL FRAMEWORK BASED ON THE RULE OF LAW;

-- AFFIRM THAT RESPECT FOR THE RIGHTS OF PERSONS BELONGING TO NATIONAL MINORITIES IS AN ESSENTIAL FACTOR FOR PEACE, JUSTICE, STABILITY AND DEMOCRACY;

-- COMMIT THEMSELVES TO PROTECT THE RIGHTS OF PERSONS TO FREELY EXPRESS, PRESERVE AND DEVELOP THEIR ETHNIC, CULTURAL, LINGUISTIC OR RELIGIOUS IDENTITY AND MAINTAIN AND DEVELOP THEIR CULTURE FREE OF ANY ATTEMPTS AT INVOLUNTARY ASSIMILATION;

-- RECOGNIZE THE RIGHTS OF MINORITIES TO ESTABLISH AND MAINTAIN CONTACTS AMONG THEMSELVES WITHIN THEIR COUNTRY AND ACROSS INTERNATIONAL FRONTIERS;

-- CONDEMN TOTALITARIANISM, RACIAL AND ETHNIC HATRED, ANTISEMITISM AND ALL MANIFESTATIONS OF XENOPHOBIA AND DISCRIMINATION AGAINST ANYONE, AS WELL AS PERSECUTION ON RELIGIOUS AND IDEOLOGICAL GROUNDS.

-- RECOGNIZE THE PARTICULAR IMPORTANCE OF INCREASED COOPERATION AMONG THE SIGNATORIES FOR THE BENEFIT OF NATIONAL MINORITIES AND OF ENCOURAGING THE SOLUTION OF PROBLEMS THROUGH DIALOGUE BASED ON THE PRINCIPLES OF THE RULE OF LAW;

ON THE SUBJECT OF HOW CSCE CAN HELP TO PROTECT HUMAN RIGHTS, THE MEMBER STATES:

-- REAFFIRM THEIR COMMITMENT TO DEVELOP THE HUMAN DIMENSION MECHANISM OF THE CSCE AND EXPLORE WAYS IT CAN BE USED TO ADDRESS MINORITY RIGHTS CONCERNS AS WELL AS OTHER ISSUES RELATING TO THE PROTECTION OF FUNDAMENTAL FREEDOMS.

PLENARY REMARKS BY THE HONORABLE MAX M. KAMPELMAN

Head of the U.S. Delegation

to the

Copenhagen Meeting of the Conference on the Human Dimension

Plenary, June 29, 1990

Mr. Chairman:

Our meeting comes to an end this morning. It has been a highly successful meeting. The Conference on Security and Cooperation in Europe (CSCE) has taken an extraordinary step forward in strengthening the human dimension portion of its responsibilities. The Copenhagen Concluding Document will be regarded by our successors as a major contribution to an historic process which is moving the peoples of our countries toward a period of increased security, stability, human dignity, and peace.

In this connection, Mr. Chairman, I express the most profound appreciation of my delegation to Ambassador Turk of Austria, who with his very conscientious and able associates

from Finland, Hungary and Switzerland, labored intensely and constructively to produce for us a consensus behind a splendid document.

The Helsinki Final Act has again demonstrated its enduring qualities. What we have produced here, in the one month of our work together, represents, I believe, the most significant advance in the Helsinki process since the agreement itself came into being on August 1, 1975. We have now clothed our values in a political structure and framework -- that of democracy and the rule of law.

The atmosphere of freedom which permeates Danish society, its gracious capital, and its heroic people, has contributed immensely to our work here. I wish to express my appreciation, and that of my Government not only to the Executive Secretary and his capable staff, but to the people and Government of Denmark whose spirit of freedom helped us to produce an extraordinary document of freedom.

The democratic revolution we are dramatically experiencing in Europe has been a triumph of the human spirit. It is a vindication of the values that have animated this process. The forces of freedom, embodied in courageous men and women whose common bond is the aspiration for human dignity, have been energized in a remarkable and heartening

way. They have changed the course of the 20th century. We have here properly reflected that change and pointed the direction for further change.

Yet, as the Irish poet Yeats said in another context, "All is changed; but not, alas, changed utterly." Freedom can never be taken for granted. Structures of freedom and political cultures supportive of democratic pluralism are the indispensable foundations for the democratic future of Europe. Strengthening those structures, and promoting political cultures which cherish pluralism as a precious human and national asset, are now and in the future essential components of the CSCE process.

What we have done here is to link the human dimension of CSCE to the process of democracy-building. That is why we have emphasized the rule of law: for it is only under the rule of law and a constitutional regime of liberties that human dignity can be preserved and democratic consolidation take place.

That is why we have emphasized the importance of free elections, the role of independent political parties, and the importance of international observers in the electoral process. An orderly, free, open, and regular process of testing the people's will is essential if governments are to

have legitimate and effective authority to pursue the common good.

That is why we have emphasized constitutional and legal protection for the rights of minorities. Only when those safeguards are in place can the politics of persuasion replace the politics of coercion, fear, and intolerance.

Mr. Chairman, we have met in Copenhagen in the first year of the last decade of the 20th century -- a century which Charles Dickens, had he lived among us, might well have described as "the best of times" and "the worst of times."

Ours has been a century of immense, unprecedented, and breathtaking scientific and technological progress. When I was a boy -- which was, I add, not quite so long ago! -- there were no vitamin tablets, no penicillin, no antibiotics, no trans-continental telephones, no fax machines, no Xerox, no frozen foods, no plastics, no man-made fibers, no television, no microchips, and no transistors. Today, you and I live in a world in which science and technology have dramatically altered our lives.

Education, formerly a privilege of a small elite, has now through computerization made the wisdom of the past and the intellectual explorations of the present readily available to

the leaders of the future. Economic interaction has built bridges of cooperative enterprise across ancient national, racial, and ethnic boundaries. More than one trillion dollars a day is transferred daily from one part of our globe to another. Communications are virtually instantaneous across the planet. Indeed, while we have been meeting here in Copenhagen, more than two billion people around the world have been participating together, through television, in the same event -- the World Cup. No state can, any longer, maintain a monopoly on information or keep its people from access to news. A whisper or a whimper in one remote corner of this planet can be heard in all parts of the world.

Yet, these great advances in the human condition have been paralleled in this century by what often seem to be intractable political conflicts. Hundreds of millions of lives have been lost: tens of millions in war, and an even greater number through political violence and repression.

It is as if the world of politics remained in the dark ages while our scientific, technological and communications worlds moved ahead to the tomorrows of modern civilization.

A secure peace, within and among nations, can only be built on the foundation of the institutions of freedom which protect and develop the inherent dignity and inviolable worth

of every human being. It is peace with liberty that we seek. And it is that peace which the Helsinki process has striven to attain.

The Helsinki process has entered a new phase. Democracy-building, we know, is a never-ending task. All of us are constantly testing, as our former president Abraham Lincoln said in his famous Gettysburg Address, whether nations "conceived in liberty and dedicated to the proposition that all men are created equal" can "long endure." As we in the United States reflect on our own efforts to strengthen and deepen our democracy, and as we think about the remarkable process of democratic consolidation that we see in the new democracies of central and eastern Europe, we know that there is important work still left before us.

Our fourth President, James Madison, one of the most learned framers of the American Constitution, taught that freedom was not secured simply by the "parchment barriers" of constitutional and legal texts. These had to be given life by democratic institutions and by the virtues and habits of a people. Tolerance of others; respect for the rule of law; the willingness to compromise and to renounce violence as a means to redress grievances; the capacity to cherish and celebrate

the cultural, ethnic, and religious heritage of others as precious stones in the human mosaic -- these "virtues" are essential components of a political culture which can sustain and develop the institutions of democratic governance.

Civic virtue is nourished, in considerable part, by the free association of citizens in voluntary organizations: religious institutions; trade unions; business associations; political parties; non-governmental human rights organizations; agencies that care, as a matter of conscience, for the weak, the poor, the illiterate, the sick, the elderly, and the dying. The great religious traditions of Europe are an essential part of that democratic process. When people believe it to be the will of God that they not murder or maim or violate each other over what constitutes the will of God, a tremendous step toward building a culture of true freedom has been taken. A society with a robust sector of private, voluntary organizations is a society in which the tensile strength of democratic culture is less likely to go slack in times of difficulty. Our concluding document reflects this reality.

Mr. Chairman, we are living in a time when no society can isolate itself or its people from ideas and information; or from the changes which the scientific revolution has brought into all our lives; or from the ebbs and flows of commerce; or from the effects of modern technology. Canada cannot

protect itself from acid rain without the collaboration of the United States. The Mediterranean is polluted by at least 18 different countries. Science, technology, and commerce are increasingly turning national boundaries into patterns of lace through which can flow ideas, money, people, crime, terrorism, ballistic missiles -- none of which recognize national boundaries. National boundaries can be used to keep out vaccines, but they cannot keep out germs, or broadcasts, or ideas.

This suggests, among many other things, the need to reappraise traditional understandings of sovereignty. That process is already well-underway. Nations are, by agreement, curtailing their sovereign powers over many domestic and security affairs for the sake of a larger good. Under the Universal Declaration of Human Rights and the Helsinki Final Act, States have freely agreed to treat their own citizens in a humane and responsible manner. States have recognized the right of other States to evaluate that internal behavior. On-site inspectors have been given the right to inspect military facilities and observe maneuvers as confidence-building measures and as a means to verify arms control and arms reduction agreements. In this conference, we have extended that principle and agreed to the confidence-building measure of observing elections.

No country can be secure in isolation. We cannot achieve unilateral security by withdrawing from the world, or seeking national impregnability. Peace, freedom, and security require that we learn to accept, in each of our countries, a mutual responsibility for the security and dignity of peoples in other countries. We cannot escape from one another. We are bound together in an equation that makes the security of each of us dependent on the security of the others.

Mr. Chairman, we have come to understand, perhaps even more clearly than was understood by our predecessors at Helsinki in 1975, that the security dimension of CSCE and the human dimension of CSCE are mutually reinforcing. They are, in fact, two aspects of our common quest for peace-with-freedom-and-security.

This past year, we suffered a profound loss in the death of one of the true heroes of our century, Dr. Andrei Sakharov of the Soviet Union. In the 1975 Nobel Peace Prize speech which he was not permitted to deliver in person, Andrei Sakharov said this: "I am convinced that international trust, mutual understanding, disarmament, and international security are inconceivable without an open society with freedom of information, freedom of conscience, the right to publish, and the right to travel and choose the country in which one wishes to live."

We have, since 1975, made great strides toward realizing the kind of Europe that Andrei Sakharov envisioned. Copenhagen has added a major dimension to that forward movement, perhaps the most fundamental since 1975. There is more work to do, greater effort to make. We look ahead to our Moscow meeting in September 1991 as a waystation toward fulfilling our future responsibilities.

Change is never easy; it can be frightening. But the political, economic, and scientific changes we are witnessing today hold out the prospect of a world catching up with the demand for decency, fairness, tolerance, and freedom that now energizes tens of millions of human beings around the world. Historic forces for democratic change are at work, and we can be proud that our Copenhagen deliberations have played an important role in their evolution.

When we are growing up, Mr. Chairman, we are taught not to be afraid of the dark. In this moment of history, so pregnant with hope and the promise of a free and decent tomorrow, I respectfuly suggest that we must not be afraid of the light -- and of where the light can take us.

Thank you.

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